

ZB# 93-48

Joseph Dellafiora

20-2-45 & 46

Prelim.

Nov. 8, 1993

Area/Use Variance
OCPRD to be ~~at~~
notified - Use Table

Shout from EAF.4

Amended NOD from B.S.

- ① Copy of Deed
- ② Title report & here
- ③ Photos, 4 here
- ④ Fees: ① \$50.00 ^{4 hrs}
② \$10.00 hr

Notice in Sentinel 12/23/93.

Public Hearing:

Jan. 10, 1994

Board ask ap.

donedo map rockd.

MADE IN U.S.A.

NO. 753 1/3

ESSELTE

Oxford®

meeting

Area/Use/Sign
Variances
Granted
1/24/94

#93-48 - Dellafiora, Jos. T.
Use Variance - Auto body/
Used cars

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

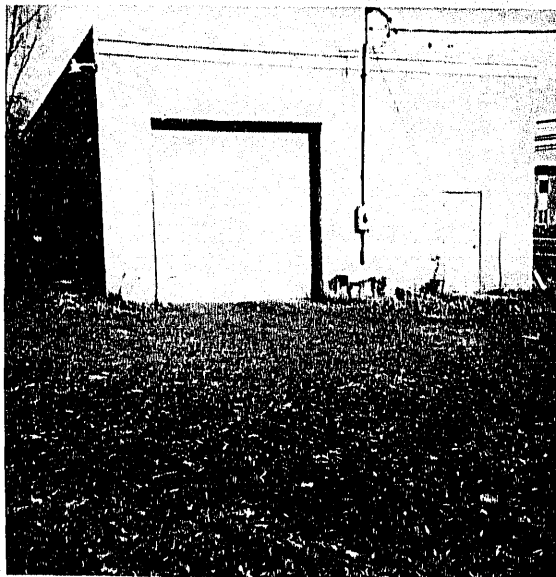
Received of B & M Automotive Center Nov. 30 1993
One Hundred fifty and 00 DOLLARS
For ZBA 93-48 App. Fee 100

DISTRIBUTION:

FUND	CODE	AMOUNT
CK 2031		150.00

By Pauline H. Townsend
Town Clerk
Title

© WILLIAMSON LAW BOOK CO., VICTOR, N.Y. 14564

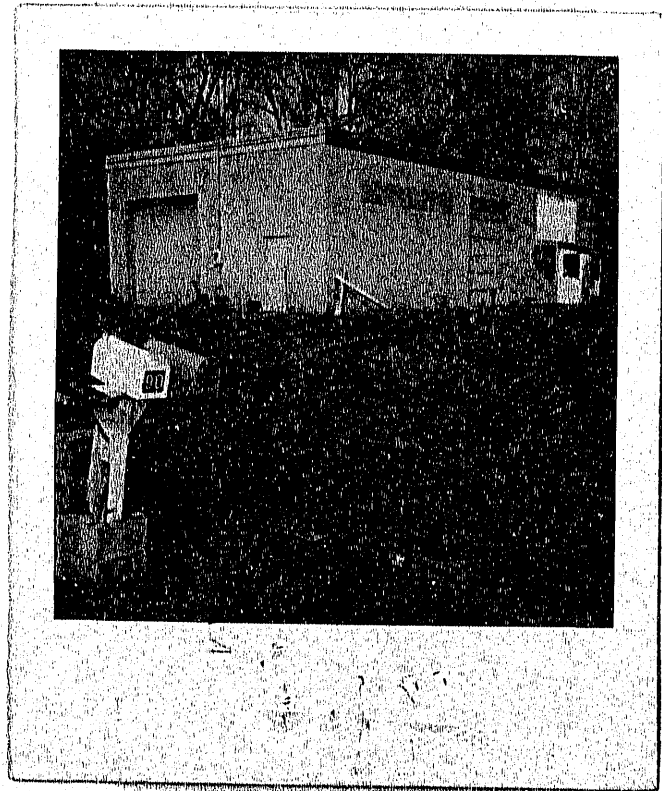
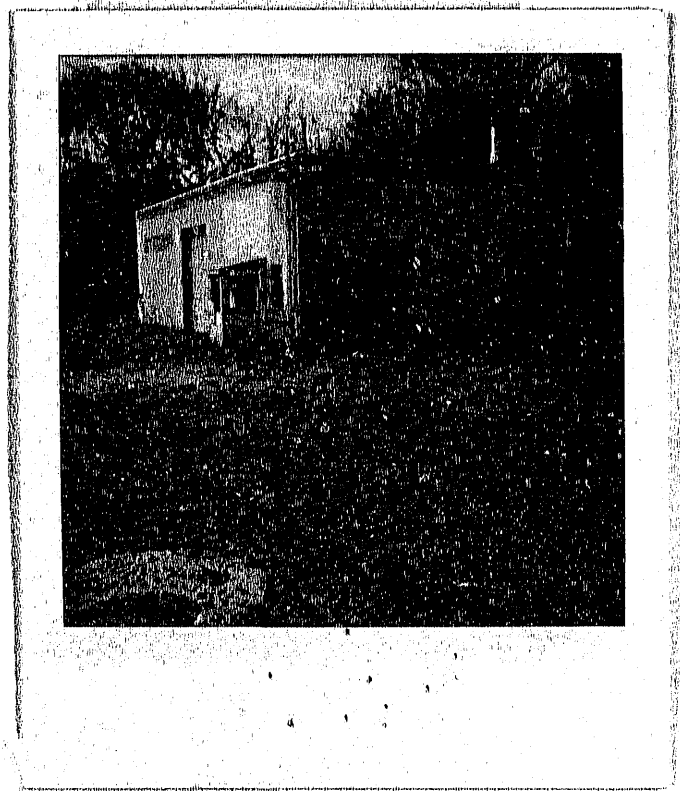
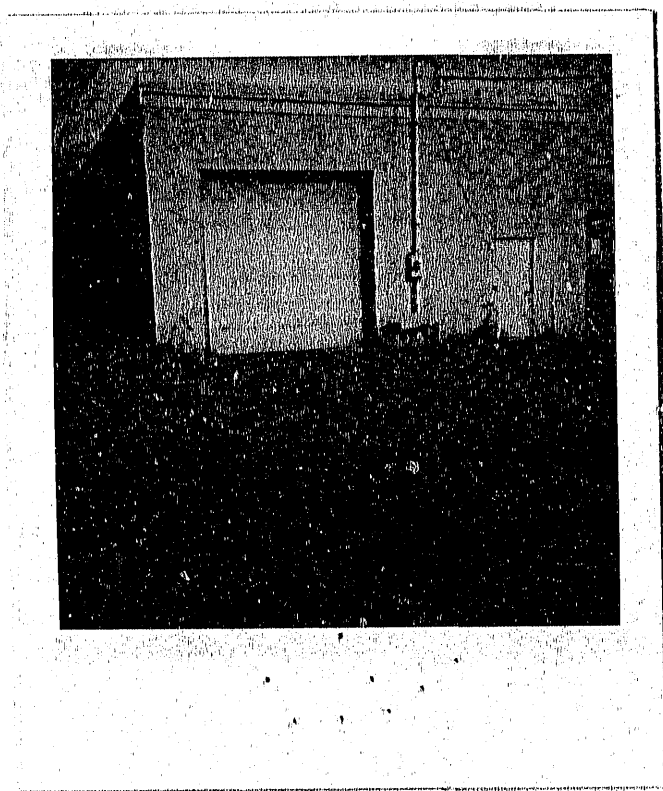


Co # 83 - 05

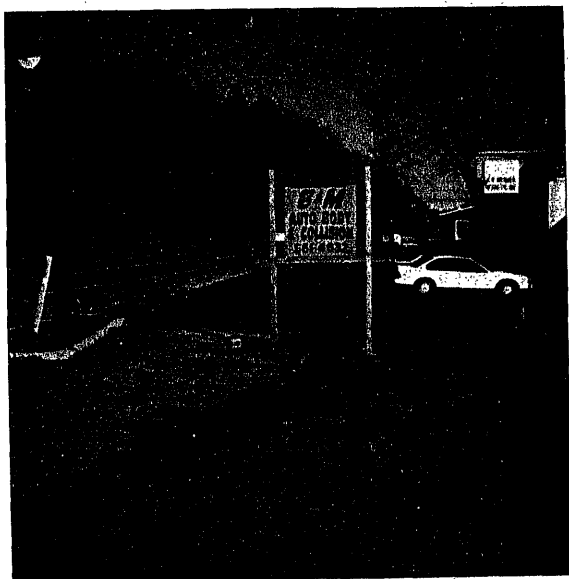
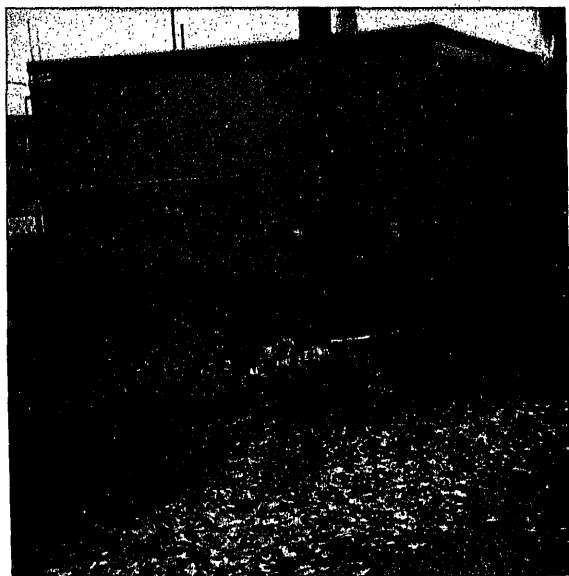
FUND	CODE	AMOUNT
CR 2031		150.00

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By Touline P. Towns
Title Dowd Clerk



1010
WAL VANCE - Auto body /
used cars



4' x 4'

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: ACS Property, Inc. (owner) FILE # 93-48
DellaFina, Joseph - (prospective buyer) (owner)

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 150.00 paid 4
CK. 2031

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 510.00 paid 4
~~292.00~~

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE	\$	_____
2ND PRELIM. MEETING - PER PAGE	\$	_____
3RD PRELIM. MEETING - PER PAGE	\$	_____
PUBLIC HEARING - PER PAGE	\$	_____
PUBLIC HEARING (CONT'D) PER PAGE	\$	_____
TOTAL	\$	_____

ATTORNEY'S FEES:

PRELIM. MEETING- _____	HRS.	\$	_____
2ND PRELIM. _____	HRS.	\$	_____
3RD PRELIM. _____	HRS.	\$	_____
PUBLIC HEARING _____	HRS.	\$	_____
PUBLIC HEARING _____	HRS. (CONT'D)	\$	_____
FORMAL DECISION _____	HRS.	\$	_____
TOTAL HRS. _____	@ \$ _____ PER HR.	\$	_____
TOTAL		\$	_____

MISC. CHARGES:

_____ TOTAL \$ _____

LESS ESCROW DEPOSIT . . . \$ _____
(ADDL. CHARGES DUE) . . . \$ _____
REFUND TO APPLICANT DUE . . \$ _____

(ZBA DISK#7-012192.FEE)

ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

(20-2-45/46)

-----X

In the Matter of the Application of

JOSEPH DELLAFIORA,

DECISION GRANTING
USE/AREA/SIGN
VARIANCES

#93-48.

-----X

WHEREAS, JOSEPH DELLAFIORA, 42 Frost Lane, Cornwall, N. Y. 12518, has made application before the Zoning Board of Appeals for a use variance to operate an auto body repair shop and used car sales facility in a PI zone, as well as for the following area variances in connection with locating the aforesaid uses on the property in the existing masonry building and in a proposed addition thereto, 56,655 s.f. lot area variance, 37.2 ft. front yard variance (River Road), 6.7 ft. front yard variance (Silver Spring Road), 29.2 ft. front yard variance (abandoned roadway), 8.5 ft. maximum building height and 20 s.f. sign area variance (total sign area) for one freestanding sign and one wall sign, for his location on River Road and Clinton Street in a PI zone; and

WHEREAS, a public hearing was held on the 10th day of January, 1994 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York, and was adjourned to and continued on the 24th day of January, 1994; and

WHEREAS, the applicant, JOSEPH DELLAFIORA, was present along with Steven P. Drabick, L.S. at the public hearing, and both spoke in support of the application; and

WHEREAS, there were two spectators present at one of the public hearing dates, to wit, Mr. Richard A. Ostner and Ms. Christine Ostner, both residing at 82 Bethlehem Road, New Windsor, New York, and who own property along Silver Spring Road, to the rear of the subject parcel. Mr. Ostner stated that he is not opposed to the application for a body shop to repair cars but he would have an objection to having a dealership at this location. Applicant stated to Mr. Ostner that there will be no dealership, since he primarily is engaged in the wholesaling of used cars. The applicant indicated that, on occasion, he might want to offer a few cars for retail sale, and would display them outside. However, the applicant offered to limit his outside display of cars for retail sale to no more than three vehicles at a time. Upon hearing of this limitation offered by the applicant, Mr. Ostner withdrew his objection to the proposed used car sales. Mr. Ostner, who used to own the property in question, suggested that the old shed located on the front corner of the property be removed since the same was located right at the corner of the property, on River Road, and constituted a safety hazard since it interfered with sight distance due to the curve in the road at this point. The applicant subsequently offered to remove this shed from the property entirely, thereby rendering this latter objection by Mr. Ostner moot and also causing the applicant to withdraw several area variance applications which

were generated by the location of this accessory building (a shed) in both the front and side yards and close to the street than the principal building and set back less than 10 ft. from the front and side lot lines; and

WHEREAS, a previous owner of the subject property, to wit, EDWARD JOLLIE and OLIVE JOLLIE, applied for, and on November 16, 1970 were granted, a 20,000 s.f. area variance by this Board, under application No. 70-26; and

WHEREAS, thereafter, on May 31, 1972, the said EDWARD JOLLIE was granted a Certificate of Occupancy, No. 35-1972 by the Town of New Windsor Building Inspector for storage and sales of building supplies for the building on the subject premises; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that the applicant is seeking permission to operate an auto body repair shop and used car sales facility which uses are not permitted in a PI zone. The evidence also shows that applicant is seeking permission also to vary the provisions of the bulk regulations pertaining to lot area, front yard (fronting on three streets), maximum building height, and total sign area in order to locate the aforesaid prohibited uses on the property in the existing masonry building as well as in a proposed addition thereto which he plans to construct at the above commercial property in the PI zone.

3. The evidence presented by the applicant substantiated the fact that a use variance would be required in order for the applicant to operate an auto body repair shop and used car sales facility in the PI zone since said uses are not permitted in the PI zone. The evidence presented by the applicant further substantiated the fact that various area variances would be required in order for the applicant to locate the aforesaid uses on the property in the existing masonry building and in a proposed addition thereto.

4. Upon this Board's review of the application, it found that, since a use variance was required for the applicant to operate an auto body repair shop and a used car sales facility in the PI zone, there was no category of use permitted by right in the Table of Use/Bulk Regulations for the PI zoning district which were remotely similar to the uses proposed on this site by the applicant. Upon review of the Table of Use/Bulk Regulations for the C zoning district, this Board found that used car sales (Col. A-Use 16) is a use permitted by special permit in the C zone, both such uses being subject to site plan approval. Since the uses proposed by the applicant bore little relation to the uses permitted by right in the PI zone, and thus the bulk regulations contained in the PI zone table were deemed inappropriate, it is the finding of this Board that the bulk regulations for the C zone would be applied to this application

since the applicant's proposed uses were similar to uses and bulk regulations contained in the C zone table. Since the applicant has proposed two separate uses, to wit an auto body repair shop and a used car sales facility, which each have different bulk regulations specified in the C zone table, this Board has applied the more stringent bulk requirements in those instances where each use has different bulk requirements.

5. Consequently the evidence presented by the applicant substantiated the fact that a variance for less than the minimum lot are, less than the required front yard depth (on three streets), more than the maximum building height and more than the maximum permitted total sign area would be required in order for the applicant to locate the aforesaid uses on the property in the existing masonry building and in the proposed addition thereto which applicant seeks to construct, which otherwise would conform to the bulk regulations for the C zone (which this Board has imported into the PI zone for purposes of this application).

6. The evidence presented by the applicant indicated that this severely undersize lot in the PI zone has been improved with the existing structures since at least 1972 and was used for storage and sales of building supplies by virtue of a previously granted 20,000 s.f. lot area variance.

7. In later years the building was used by a tank company and a metal building contractor.

8. The evidence further presented by the applicant indicated that the building has been vacant for the last two (2) years since the owner has been unable to sell or rent it. In addition, the property was the subject of a foreclosure action in 1993.

9. The applicant presented this evidence to show that the small size of this parcel, and the buildings thereon, rendered the same unsuitable for any commercially viable use permitted in the PI zone. Consequently the former owner of the property, ACS Properties, Inc., was unable to sell or rent the same, despite its being on the market for some two (2) years.

10. The applicant believed that he might be able to use the property for his auto body repair shop and used car sales facility, which presently operated on another site. The applicant believed that the property was suitable for the use since another auto body shop formerly had operated successfully in the area for many years. The applicant realized that use and area variances would be required in order for him to conduct such operations on the site.

11. The applicant offered to purchase the property, subject to obtaining the necessary approvals, and entered into a contract to that affect. Due to some repeated delays in securing the necessary approvals, the seller refused to grant the applicant any additional extensions of time to close and required that he purchase the property even before the prerequisite approvals to operate his business were obtained.

12. The evidence presented by the applicant indicated that he believed he received an accommodation on the purchase price from the seller because the property was undersize for the PI zone. Upon being forced by the seller to complete his purchase of the subject property before securing the requisite approvals, the applicant came to the conclusion that the property was not worth anything without a use variance.

13. The small size of the subject property and the layout of the buildings thereon make the same unsuitable for any use permitted as of right in the PI zone. The long time that the property remained vacant prior to the applicant's purchase of the same (which purchase was closed prematurely for reasons best known to the seller and applicant), and at a price which included an accommodation to applicant, indicates that the applicant cannot realize a reasonable return for each and every permitted use in the PI zone. The Board finds that this lack of return is substantial since, even with the previously granted area variance, the property remained vacant for a long period of time and was not commercially viable for PI uses.

14. It did not appear that any other adjacent land was available for sale which, if combined with the subject parcel, might have made the same suitable for uses permitted in the PI zone.

15. The evidence presented on behalf of the applicant also indicated that it is necessary for the applicant to construct an addition to the existing building because the floor area is too small to operate a state registered automobile repair shop with special emphasis on auto body repairs.

16. Except for this addition, which affects one front yard, all other site improvements are existing. Thus, except for the incremental increase in the variance generated by the addition, the lot area and all other set backs and the building height on the site will remain as existing conditions and the area variance requests applicable thereto are for the existing improvements on the site.

17. Given the constraints imposed by the PI zone, (and by the C zone bulk regulations which are applied herein) the multiple front yards, and the required size of the proposed addition, it is the finding of this board that the proposed location for this addition is the only practical location therefore on the parcel.

18. The evidence presented by the applicant indicated that the neighborhood surrounding the subject site is devoted to mixed commercial and industrial uses as well as to residential use. The properties in the neighborhood fronting on River Road consist of a vacant auto body repair shop, a bar and restaurant, large oil tank farms for fuel storage and distribution, a construction company, a factory used for manufacturing lighting products, as well as several residences and a factory.

19. The evidence presented by the applicant indicated that he will require a small freestanding sign and a small wall sign creating a sign variance request of 20 s.f. for total sign area

which exceed the 60 s.f. maximum allowed. Since this will be a new operation on River Road, applicant feels that he must have signage in order to identify his operation to passing motorists who normally travel River Road at speeds upwards of 30 mph.

20. Given the speed at which passing motorists go by the site, and the fact that there is a curve in the road in front of this property, it is absolutely essential that the applicant have clear signage which quickly clarifies this new location to passing motorists.

21. The Board finds that the relatively modest sign area variance requested will result in clear and quickly readable signage, which provides the applicant with the necessary exposure, and minimizes the hazards to the public health, safety and welfare.

22. It is the finding of this Board that the proposed addition will expand the scope of the applicant's operation but will not generate substantially greater impacts on the neighboring properties than are presently generated in this area by the existing uses.

23. It is the finding of this Board that, given the constraints of the site, the proposed operation will greatly improve the area since the existing building is now vacant and unkempt.

24. The applicant has filed the required short environmental assessment form in connection with this application.

25. The Zoning Board of Appeals of the Town of New Windsor has declared itself an involved agency in regard to the review of the applicant's request for a use variance, on the assumption that the Planning Board of the Town of New Windsor ultimately will declare itself lead agency in regard to the proposed use of the site and the new construction by the applicant.

26. The Zoning Board of Appeals of the Town of New Windsor has reviewed the short environmental assessment form prepared by the applicant and has heard one of the neighbors speak about the proposal at its aforesaid public hearing, and finds that the granting of this requested use variance will not result in any significant adverse environmental impact, and consequently has made a negative declaration under SEQRA for the requested use variance.

27. During the course of the public hearing on this matter, and in response to opposition by a neighbor to an automobile dealership and the negative impacts therefrom, the applicant offered to limit his outside display of cars for sale to no more than three vehicles at a time.

28. In addition, an objection was also raised at the public hearing about a shed which was located at the front corner of the property. The applicant subsequently offered to remove this shed from the property entirely, thereby rendering this latter objection by Mr. Ostner moot and also causing the applicant to

withdraw several area variance applications which were generated by the location of this accessory building (a shed) in both the front yard and side yards and close to the street than the principal building, and set back less than 10 ft. from the front and side lot lines.

29. It is the finding of this Board that the requested variances, if granted, will not blight the proper and orderly development and general welfare of the community since the area is already devoted to mixed uses, some of which have considerably greater impacts on the community than the applicant's proposed use, and the applicant has agreed to ameliorate each of the objections which were raised by the only neighbor who appeared and commented on the proposal at the public hearing, to the satisfaction of said neighbor.

30. Given these factors, it is the finding of this Board that the proposed use of the property, the proposed addition and the proposed signage will not have an adverse effect on property values in the neighborhood.

31. The evidence presented by applicant substantiated the fact that the variances, if granted, would not have a negative impact on the physical or environmental conditions in the neighborhood since the applicant must comply with all federal, state and local environmental regulations since the applicant's proposed use of the property will generate less negative impacts on the neighborhood than many of the existing, permitted uses in the PI zone and since the applicant has agreed to ameliorate the impacts concerning which objections were raised at the public hearing.

32. It is the finding of this Board that the proposed use, area and sign variances are not unreasonable and will not adversely impact the public health, safety and welfare.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. Under the applicable PI zoning regulations, the applicant cannot realize a reasonable return from the property in question. The land cannot yield a reasonable return to the applicant if used for any permitted use in the PI zone. The land in question is too small in area, even with the previously granted area variance, and the buildings thereon are too small and are laid out in a manner, that for each and every permitted use under the PI zoning regulation where the property is located, the applicant cannot realize a reasonable return. This lack of a reasonable return is substantiated and has been demonstrated by competent financial evidence presented by the applicant who provided the history of the property (which included being vacant for two years when the owner was unable to sell or rent the property, and a foreclosure thereon). In addition the circumstances surrounding the applicant's purchase of the property included an accommodation on the purchase price, which apparently was insufficient since the applicant was forced to close prematurely before obtaining the necessary approvals, leading this Board to find that the property could not yield a

reasonable return but for the granting of the requested variances.

2. The hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. The lot in question appears to be unique in that it is relatively small in area for the PI zone, it is bounded on three sides by roads, and is laid out such that any viable use thereof requires variances in addition to the area variance which was previously granted thereon.

3. The requested use variance, if granted, will not alter the essential character of the neighborhood which, at the present time, is devoted to mixed commercial, industrial and residential uses.

4. The alleged hardship has not been self-created. This applicant acquired a parcel of land which was severely deficient in area for uses permitted in the PI zone, was bounded on three sides by roads, and was laid out in such a manner that required variances, in addition to the lot area variance previously granted in 1970, in order to be utilized and yield a reasonable return. The applicant did not create any of these conditions, all of which affected the lot when he purchased the same. Consequently, the hardship was not self-created.

5. It is the conclusion of this Board that the applicant has demonstrated that the applicable zoning regulations and restrictions have caused unnecessary hardship.

6. It is the further conclusion of this Board that, since the applicant has shown that the applicable zoning regulations and restrictions have caused unnecessary hardship, the applicant is entitled to a use variance, authorizing the subject parcel to be used for an auto body repair shop and used car sales facility, both uses which otherwise would not be allowed or would be prohibited by the terms of the Zoning Local Law of the Town of New Windsor in the PI zoning district.

7. It is the further finding of this Board that the requested use variance is the minimum variance necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time, preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The requested area variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

9. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

10. The requested area variances are substantial in relation to the bulk regulations for lot area, front yard (on three streets) and maximum building height. The requested area variance for total sign area is not substantial in relation to

the bulk regulations therefore. It is the conclusion of this Board that the granting of the requested area variances, which are deemed to be substantial, is warranted here because the lot is of such a small area, in relation to the requirements in the PI zone, and the building thereon are located in relation to the three streets which create three front yards, that, despite the previously granted lot area variance, these additional substantial area variances are necessary to make the lot usable for any viable purpose. The lot size and configuration create the need for the substantial area variances herein granted. It is the conclusion of this Board that the granting of the requested substantial area variances will not adversely change the character of the neighborhood or negatively impact the presently existing mixed uses in the area.

11. The requested area variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

12. The difficulty the applicant faces in conforming to the bulk regulations is not a self-created one. Despite the previously granted lot area variance, the lot which the applicant acquired was still severely deficient relative to the requirements of the bulk regulations. The configuration of the buildings on the lot, and the frontage on three streets, created so many constraints on the lot that, even if it were not for the proposed addition, the lot would still require area variances. The applicant's desire to build an addition, and to add signage in excess of the total sign area permitted, do constitute self-created difficulties. However, it is the conclusion of this Board that such difficulties are minor in relation to the pre-existing difficulties in complying with the requirements of the bulk regulations which were inherent in the lot and its layout even before the applicant purchased the same.

13. It is the finding of this Board that the benefit to the applicant, if the requested area variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

14. It is the further finding of this Board that the requested area variances are the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

15. The interests of justice will be served by allowing the granting of the requested use and area variances.

NOW, THEREFORE, BE IT

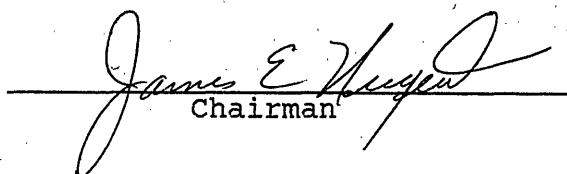
RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a use variance to permit the operation of an auto body repair shop and a used car sales facility in a PI zone, as well as the following area variances in connection with locating the aforesaid uses on the property in the existing masonry building and in a proposed addition thereto: (1) 56,655

s.f. lot area, (2) 37.2 ft. front yard on River Road, (3) 6.7 ft. front yard on Silver Spring Road, (4) 29.2 ft. front yard on abandoned road, (5) 8.5 ft. maximum building height and (6) 20 s.f. total sign area for one freestanding sign and one building sign, all of which are SUBJECT TO and CONDITIONED UPON the following restrictions (a) the outside display of vehicles for retail sale shall be limited to no more than three vehicles at any time, and (b) the existing shed located at the front corner of the property shall be entirely removed from the property; on applicant's property at the above location, in a PI zone, as sought by applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: May 9, 1994.


Chairman

(ZBA DISK#10-020294.JD)

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR <u>JOSEPH V. DELLAFIORA / STEVEN P. DRABICK</u>	2. PROJECT NAME <u>SITE PLAN FOR JOSEPH V. DELLAFIORA</u>
3. PROJECT LOCATION: Municipality <u>TOWN OF NEW WINDSOR</u> County <u>ORANGE</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <u>90 RIVER RD</u> <u>WEST SIDE OF RIVER RD., 416'± NORTHERLY OF THE</u> <u>INTERSECTION OF THE NORTHERLY SIDE OF CLINTON ST. & THE</u> <u>WESTERLY SIDE OF RIVER RD.</u>	
5. IS PROPOSED ACTION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <u>SITE PLAN FOR A PROPOSED AUTO-BODY, REPAIR SHOP</u> <u>& USED CAR DEALERSHIP.</u>	
7. AMOUNT OF LAND AFFECTED: Initially <u>0.574</u> acres Ultimately <u>0.574</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly <u>PROPOSED COMMERCIAL USE DOES NOT COMPLY WITH P1 ZONE USE.</u> <u>EXISTING & PROPOSED BUILDING ADDITION DO NOT MEET CURRENT</u> <u>ZONING SETBACKS.</u>	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) and permit/approvals <u>ZONING BOARD OF APPEALS APPROVAL OF VARIANCE FOR USE</u> <u>TOWN PLANNING BOARD APPROVAL OF SITE PLAN.</u>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: <u>STEVEN P. DRABICK, P.L.S.</u>	Date: <u>8/4/93</u>
Signature: <u>Steven P. Drabick</u>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER

RT II—ENVIRONMENTAL ASSESSMENT

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? ☐ Yes ☒ No If yes, coordinate the review process and use the FULL EAF.

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? ☒ Yes ☐ No **PLANNING BOARD - LEAD AGENCY** If No, a negative declaration may be superseded by another involved agency.

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
NO

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
NO

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
NO

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
NO

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly.
NO

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly.
NO

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly.
NO

D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
☐ Yes ☒ No If Yes, explain briefly

PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

☐ Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

☒ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide on attachments as necessary, the reasons supporting this determination:

ZONING BOARD OF APPEALS (INVOLVED AGENCY)

Name of Lead Agency

JAMES E. NUGENT, JR.
Print or Type Name of Responsible Officer in Lead Agency

CHAIRMAN
Title of Responsible Officer

X James E. Nugent Jr.
Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

1/24/94
Date



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(914)563-4630

February 3, 1994
FAX: 914-563-4693

Mr. Joseph Dellafiora
B&M AUTOMOTIVE CENTER
42 Frost Lane
Cornwall, N. Y. 12518

RE: APPLICATION FOR USE/AREA/SIGN VARIANCES
#93-48

Dear Mr. Dellafiora:

This is to confirm that the Zoning Board of Appeals at its January 24, 1994 meeting voted to GRANT your application for a use variance for an auto body repair shop and used car sales, several area variances, and sign variances for the construction of an addition to the existing masonry building located on River Road in the Town of New Windsor in a PI zone.

Formal decision will be drafted at a later date and acted upon by the Board. You will be receiving a copy by return mail.

Very truly yours,

PATRICIA A. BARNHART
Secretary

/pab

cc: Michael Babcock, B. I.
Key Bank - Attn: John R. Hutton, Sr. V.P.

B.

ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW
OF LOCAL PLANNING ACTION
(Variances, Zone Changes, Special Permits, Subdivisions)

Section A. - To be completed by Local Board having jurisdiction.
To be signed by Local Official.

Local File No. 93-48

1. Municipality Town of New Windsor Public Hearing Date 01/10/94

☐ City, Town or Village Board ☐ Planning Board ☒ Zoning Board of Appeals

2. Applicant: NAME Joseph Dellafiora

Address 42 Frost Lane, Cornwall, N.Y. 12518

Attorney, ^{Surveyor} Engineer, Architect Steven P. Drabick, L.S.

3. Location of Site: River Rd. at Clinton Street
(street or highway, plus nearest intersection)

Tax Map Identification: Section 20 Block 2 Lot 45/46

Present Zoning District PI Size of Parcel 23,345 s.f.

4. Type of Review:

☐ Special Permit Use*

☒ Variance* Use

Sign & Area See Application annexed hereto

☐ Zone Change* From: To:

☐ Zoning Amendment* To Section:

☐ Subdivision** Major Minor

12/16/93
Date

Patricia A. Bunkart, Secy.
Signature and Title
ZBA

*Cite Section of Zoning Regulations where pertinent
**Three (3) copies of map must be submitted if located along County Highway, otherwise, submit two (2) copies of map.

OCPD-1

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals
of the TOWN OF NEW WINDSOR, New York will hold a
Public Hearing pursuant to Section 48-34A of the
Zoning Local Law on the following proposition:

Appeal No. 48

Request of JOSEPH DELLAFIORA

for a VARIANCE of
the regulations of the Zoning Local Law to

permit auto body repair/used car dealership in a PI zone;
construction of an addition with insufficient lot area, lot
width, 3 front yards, more than the allowable building height,
and 10 ft. side yard for accessory bldg.,
being a VARIANCE of

Section 48-9-Table of Use/Bulk Regs.-Col.A, 48-12-Table of
Use/Bulk Regs., Cols.C,E,F,I,N and Secs.48-14A(1)(b), 48-14A(4),
for property situated as follows:

River Road, north of Clinton Street, New Windsor, N. Y.,

known and designated as tax map Section 20-Blk.2-Lots

45 and 46.

SAID HEARING will take place on the 10th day of
January, 1994, at the New Windsor Town Hall,
555 Union Avenue, New Windsor, N. Y. beginning at
7:30 o'clock P. M.

JAMES NUGENT
Chairman

PUBLIC HEARING:

DELLAFIORA, JOSEPH

MR. NUGENT: Request for use variance for auto body repair and used car dealership, and construction of a proposed addition to existing masonry building with (1) 56,655 s.f. lot area, (2) 37.2 ft. front yard on River Road, (3) 6.7 ft. front yard on Silver spring Road, (4) 29.2 ft. front yard on abandoned raod, (5) 8.5 ft. maximum building height variances and variances from Sections 48-14A(1)(b) and 48-14A(4) requiring that an accessory building be set back 10 ft. from any lot line and that no such building shall project nearer to street than principal building, and (5) sign variances at location on River Road in a PI zone.

Mr. Joseph Dellafiora and Steven Drabick appeared before the board for this proposal.

MR. LUCIA: As long as that is, we need to add a couple items to the agenda as it's dated there with regard to the existing frame garage on the front corner of the property two variances are inherent in that, a 9.5 foot front yard variance and ten foot side yard variance because it sits exactly on the property line in the front and I guess only half a foot off the property line on the side yard. So they are inherent in the same application. And just for the record, we should specify the sign variances apparently this is just for total sign area, he's permitted total sign area of 60 square feet, no single sign either freestanding or wall sign exceeds that but the total of both combined the 80 square feet so he needs a 20 square foot sign area variance. It's all in the Notice of Denial, I think.

MR. DELLAFIORA: Well we're all here for the change to a bulk C zone bulk is that from the preliminary hearing the property I purchased in October, we started this back in April of '93 when it was owned by ACS and eventually my contract for sale, I had to purchase the property from ACS it's been empty for almost two years now. ACS properties Inc. foreclosed on it from Big S back in May, I believe of '93. The whole purpose, I have a body shop in Newburgh and I have a used car lot

in Cornwall and the property here was appealing to me being as there is a body shop right down the road, I knew the people there and I think it had a lot of benefits to me. I can add that little section there, I'm not going into a big time body work. I mainly deal with my own cars so I'm just trying to get enough area to do that, not too much drive in, just deal with the wholesale. I'm a dealer at the Newburgh Auction. There will be fences, there's a fenced in area in the picture is where the proposed addition is going to go. The pictures that we took and there will be a fenced in area from the front of the building extending out once the extension is put up to secure the area. One sign we're talking about is right along at the traffic way as you enter is the sign that I had put in the application for. There's also a shack in the front that I am going to rehabilitate where I can use it as a storage shed. It's a wooden shack just for fenders and sheet metal that is about all I can put in there? As per the site plan, we collided all the parking facilities, I believe we need and I just want to improve the property and make it worthwhile. There's nothing else I can do with the property. I got involved where it was push or shove where I had to buy it. Walsh Road is where I deal with the auction. I painted 120 cars for the auction the last couple of years. That is where I pick up and drop them on Walsh Road. That is one of the reasons I first noticed the building. I got interested in it and that is my business without being able to do this, it serves no purpose to me at all. All I can say is that I want to make an improvement to the area and hopefully make a little nice livelihood. I know the other place that was there Cimorelli then it went to another gentleman. They went out of business. He had done very good business down there. I think he had a little rent dispute with the owners, that is why he moved out. It's a good area. It's got good traffic count and I can't see you know doing anything but improving the building that has been laying empty for almost two years now. I think the tank guys were the previous renters going back a few years ago.

MR. LANGANKE: Are you planning to repair cars here also?

MR. DELLAFIORA: Hopefully, I plan with the extension it depends how much usage I can get out of that, depends what I am doing with my own body shop cars but I'm a registered repair shop now I'm extending into the auto body part of it here.

MR. LANGANKE: Are you planning on selling cars here also?

MR. DELLAFIORA: Nope. I sell at the auction wholesale. I like to leave the option to leave one or two there, that is why I put in for the variance to leave a couple there while they are finished before.

MR. NUGENT: How many cars are going to be left there at night?

MR. DELLAFIORA: At night?

MR. NUGENT: Are there going to be cars parked there at night? In other words, stored on the outside of the building?

MR. DELLAFIORA: Yeah, that is why.

MR. NUGENT: Inside the fence?

MR. DELLAFIORA: Everything from the fence back.

MR. NUGENT: A lot of people's concerns are junk cars.

MR. DELLAFIORA: No, that is why I'm going to put a fence up for my own protection.

MR. TORLEY: What kind of fence?

MR. DELLAFIORA: Chain link existing now, I'm just going to extend it.

MR. TORLEY: Cars that will be out there will not be junkers for parts but ones that are repairing?

MR. DELLAFIORA: No. I sell them. I don't, and I repair them. The only ones that would be in the yard

would be cars waiting to be repaired or cars that are finished and waiting for the auction. Auction only runs once a week on Wednesday.

MR. TORLEY: You would not anticipate any one car being out there for more than a couple weeks?

MR. DELLAFIORA: Yeah.

MR. TORLEY: And you say this building has been vacant for several years?

MR. DELLAFIORA: As far as I can find out the tank guys, whoever they were were the last occupants and Big Saver was the owner and he stored his trucks there for a while and then he went bankrupt and ACS Properties had to foreclose on him and took it back and it's been empty at least 18 months to my knowledge.

MR. TORLEY: You do not feel that there are practical uses or economic uses that would fit the zoning you're asking for a use variance?

MR. DELLAFIORA: That is why I am asking for a use variance. It's too small for industrial, as far as I can see. What I have learned from ACS Properties, ACS couldn't rent it to anyone for storage or whatever he had it on the market for a while for rental and he couldn't find anybody cause it isn't that big. As it sits now, there's an office space in it that takes away from the actual size.

MR. TORLEY: Your belief is that this property will not be usable under the existing zoning?

MR. DELLAFIORA: From the history and the position I'm in, it's not.

MR. NUGENT: Your areas that you are going to have are they going to be lighted?

MR. DELLAFIORA: There's lighting on there now. Also lighting on the front corner and on the back the very front corner, as you look at the building, there's a mercury vapor light there and there's one in the rear

also and I hope to put a few more depending on how--

MR. TORLEY: Sir, should you be granted the variances, you'd be going before the Planning Board for site plan approval?

MR. DELLAFIORA: Yes.

MR. LANGANKE: How many people are going to be working there?

MR. DELLAFIORA: Two, not including myself, two workers.

MR. LANGANKE: So there will be always be somebody down there?

MR. DELLAFIORA: Two workers from 8 in the morning till 5 in the afternoon.

MR. LUCIA: Property is substantially undersized for either the PI zone or for C zone in the type of uses you're looking for, to somewhat ameliorate the applicant's burden of proof you'd be interested to know on November 16 of 1970, the ZBA granted is 20,000 square foot lot area variance for a then owner of the building to operate storage and sales of building supplies business that was Ed Jolly, I think.

MR. NUGENT: What year was that?

MR. LUCIA: '70 I think it was. Mr. Dellafiora, I have some questions. Let's do the use variance first because they are somewhat different tests. The task on a use variance is unnecessary hardship and in order to demonstrate that you need to show the board that for each and every permitted use under the zoning regulations, you cannot realize a reasonable return provided that return is substantially demonstrated by competent financial evidence for every permitted use you feel the building is undersized?

MR. DELLAFIORA: I believe so and like I said from the past history of being in foreclosure for one person not being able to do anything with it and ACS Properties

couldn't do anything with it.

MR. LUCIA: Since this was a recent purchase, how was it that you came to buy the property you were just anticipating?

MR. DELLAFIORA: Well, no, I pass it every day going to where I am now and I also do business with the auction on Walsh Road and being in the body business, Mr. Cimorelli's son used to work right down the road so I have been in the area. I live in Cornwall and work in Newburgh so I've passed it numerous occasions.

MR. LUCIA: When you went into contract for the property, were you unaware that variances might be required?

MR. DELLAFIORA: No, we were aware of it. The initial application was ACS Properties and what happened was he gave me an extension because we couldn't get before the board and he wouldn't give me a second extension.

MR. LUCIA: Do you feel that your seller gave you some accommodation on the sales price because the property was undersized for PI uses?

MR. DELLAFIORA: I believe so.

MR. LUCIA: Had it been usable for any purpose in the PI zone, do you think he could have sold it for a lot more?

MR. DELLAFIORA: He was trying to rent it and actually when he took it back in foreclosure, told me that he couldn't rent it and that is why he came down on his price and he would have stayed aboard but he was just, he couldn't, he had a board to answer to, I believe cause we were in contract from April on and they wouldn't give him an extension. Otherwise, he would have been doing this.

MR. LUCIA: If this board does not give you a use variance, is the property worth to you what you paid for it?

MR. DELLAFIORA: It's not worth anything to me, not worth anything.

MR. LUCIA: Is the hardship relating to the property unique in other words is it different from other properties in the general neighborhood?

MR. DELLAFIORA: Well, like I said, within a half a mile there's another body shop and I don't know what commercial is, there's a bar and restaurant within quarter of a mile of the place and storage tanks and factories. I don't know what exactly falls into PI but there's one body shop within a half a mile, quarter mile of it right now.

MR. LUCIA: I think all those separate, maybe the tanks would not be uses. Anyway, do you know if the other body shop property is larger than yours?

MR. DELLAFIORA: I think the building is larger. The property might be smaller. Steve Drabick is the who who drew up the site plan.

MR. LUCIA: If you would just go on and just explain to the board some of the other uses up and down River Road in this zone.

MR. DELLAFIORA: In the zone everybody knows tank farm, most of them were abandoned. There's three, two or three operating, Litron Factory, I'm not sure what they make, factory almost directly across, fixtures lights, and Afron Fuel Oil right directly across the street, he just moved back over there and basically that is what it is, abandoned house about 100 yards south and there's a bar and restaurant within the vicinity. Otherwise, it's a few residential homes.

MR. LUCIA: The PI uses, the tank farms are on much larger pieces of property?

MR. DELLAFIORA: Yes.

MR. LUCIA: And the other conforming uses, the body shop, residences, the bar are on relatively small pieces?

MR. DELLAFIORA: Yeah, I would say all small.

MR. LUCIA: Do you feel that if this board should grant you a use variance it will not change the essential character of the neighborhood?

MR. DELLAFIORA: I think it would improve the character of the neighborhood. As you can see the pictures now it's just, and I've done some improvement, I cut down some weeds already but it was just the enclosed area with the fence was just all grown in already. The building's been empty and abandoned and I'm just going to improve it hopefully bring it back to life and make something of it.

MR. LUCIA: Last test on use variances, the hardship was not self-created, meaning that you didn't cause this. Now obviously, you didn't create the undersized lot nor did you put this building in its present location which requires a number of variances but you did buy it in that condition. If you could, I'd just like you to speak to that issue a little bit.

MR. DELLAFIORA: To be perfectly honest, I was caught in a failsafe situation where I did enter hoping that I wouldn't have to be caught and it would be ACS Properties getting the approval in order to sell. But like I said outside of my hands and seeing the property as it is set, I took the shot thinking that improving a piece of property that laid empty for two years in the neighborhood that is mostly industrialized anyway that I would be able to appeal to you people and get it going.

MR. LUCIA: Let's move on to the area variance now which is a number of different tasks that is the balancing test, the benefit to you as against the detriment to it public health, safety and welfare. Do you feel that an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties by granting this area variance?

MR. DELLAFIORA: No, I don't.

MR. LUCIA: Some of this we've already touched on is the benefit which you seek here achievable by some other method feasible for you to pursue other than an area variance?

MR. DELLAFIORA: No.

MR. LUCIA: Is the requested area variance substantial as compared to other area variances? In this case that is really in terms of numbers?

MR. DELLAFIORA: I think a few of them area-wise are.

MR. LUCIA: Do you have any indication of how old the building is?

MR. DELLAFIORA: No, I'm not positive at all. Late '40's, I would assume.

MR. LUCIA: Pre-existing zoning.

MR. DELLAFIORA: I'm not positive.

MR. LANGANKE: Is that the block building?

MR. DELLAFIORA: Jolly built that place.

MR. NUGENT: He got a variance in 1970.

MR. LUCIA: I don't have any indication of what the zoning was at that point but I'm sure it was.

MRS. BARNHART: It doesn't say.

MR. LUCIA: The prior variance at least with regard to the lot area is somewhat mitigated because in 1970, the then Zoning Board saw a problem and possibly, because a change in the zoning ordinance over the years, possibly because of your use that variance request is now larger but I think the board sees that there was historically a problem with the lot area on this. Do you feel that the proposed variance will have an adverse effect or impact or physical or environmental conditions in the neighborhood or zoning district?

MR. DELLAFIORA: No, it's a positive effect.

MR. LUCIA: And was it self-created? I think we already touched on that for a use variance. The board unfortunately cannot vote on your application tonight since this is a use variance, it had to go to the Orange County Department of Planning for review. That notice under Section 239 M of the General Municipal Law went out on December 16. They have not responded to us as yet and we, jurisdiction wise, are required to give them 30 days so this board just doesn't have jurisdiction to vote. We have to adjourn your hearing to the next meeting and at that point the 30 days will have passed but we can pretty much do everything else at this meeting anyway.

MR. NUGENT: Everything up to the final vote.

MR. LUCIA: We can hear the public, if anyone wants to speak on the issue. Just a couple other things Mr. Dellafiora, thank you for providing copy of your title report. I notice in there it turns out a number of easements and covenants and restrictions, things that are typical for most titles on real property. Is there anything to your knowledge in the title to the property which would prevent you from maintaining the use which you propose to put on this property or the area of the property concerning which you're now seeking a variance?

MR. DELLAFIORA: No, I'm not aware of it, none that we found.

MR. LUCIA: I notice also in looking at the title report it turned out a pipe line easement that I gather cuts across this property, prior owner named Tubbs to a Afron's as well as your line easement. Were those easement areas deducted out in figuring net area for the area variance?

MR. DRABICK: Yes, they were, yes.

MR. LUCIA: Just for our purposes, we'll have to, they've completed short form environmental assessment form, we need the reverse side of it in the file for

this board to make a finding but we can take care of it at the next meeting. SEQRA motion we'll have to do at the next meeting also.

MR. TORLEY: Sir, I see in your plans there's a paint booth, other types of painting activities, you do not feel that these will have any adverse impact on the neighborhood?

MR. DELLAFIORA: No, they have to be approved by the DEC and it's all, there's a stack permit has to be issued to show what is going to be put out into the environment and that all has to be okayed by the DEC before I can operate.

MR. TORLEY: There will be no junkers sitting out there?

MR. DELLAFIORA: No junkers at all.

MR. TORLEY: You're dealing with the parts, you're going to have damaged fenders, where are they going go to be?

MR. DELLAFIORA: Hopefully the shack at the front is where I'm going to store the old sheet metal before we take it to Consolidated or my regular guy picks it up and like I said, with the fenced-in area, anything that we're working on that might be a part would be behind the fenced-in area.

MR. TORLEY: But any scrap metal would be in the shed, not outside?

MR. DELLAFIORA: No, you're not allowed to do that anymore either which is good.

MR. TORLEY: Not allowed and what people do--

MR. DELLAFIORA: I abide by the laws put down.

MR. LANGANKE: I'm having a real problem with the shed, I notice that it's not in any of the photographs but have any of you been down there?

MR. NUGENT: Was a garage there.

MR. LANGANKE: That is a real monstrosity.

MR. TANNER: It's also in a poor location. It's right on the roadway and it's on the property line. I'd rather see that removed and if he is going to store anything, store it behind that fence, put a shed back there or something and get that out from right out by the roadway.

MR. NUGENT: On the drawing doesn't it show a dumpster in the back?

MR. DELLAFIORA: Yes.

MR. NUGENT: Strictly for garbage?

MR. DELLAFIORA: For garbage only.

MR. TANNER: He's got room to move it behind the fence and I'd prefer to see it back there.

MR. TORLEY: Thinking you may find it cheaper to build something new than try to fix that garage up.

MR. DELLAFIORA: Everything is proposed that is what we hope to do but I wouldn't spend a ton of money. It might be easier to just take it down and buy one of those \$1,200 sheds in the back.

MR. TANNER: Having looked at it that might be your cheaper option and it would certainly clean up the front of the building. I mean no matter what you do to that building, it's still going to be sticking right out there on the roadway and from your point of view, they are going to have better sight line for the property if that is gone.

MR. TORLEY: And a lot better security too.

MR. DELLAFIORA: I don't have any problems with that.

MR. LUCIA: The board is not requiring you to remove the shed but you're looking for a hundred percent

variances on that building which is as high a threshold as you're going to get on an area variance. We'll certainly listen to your proposal.

MR. DRABICK: In view of that, it's a very good idea. The only thing I can see in placing another shed structure the most likely place it would be placed would be, would be bordering the so-called abandoned road at which point cause of the area that we're dealing with here, we're going to be looking at variances then for being up against the abandoned road. And again I bring up the abandoned road, we call it an abandoned road, it has never been officially abandoned. The tax maps show existing right-of-way still along that side of the property although the adjoining deed descriptions do not recognize the right-of-way of that road.

MR. TANNER: How far?

MR. DRABICK: Would have to be 30 foot, a 50 foot road.

MR. LUCIA: He's looking for a variance of zero offset, even if he put it up against the abandoned road the board would view that more favorably than on River Road. What I might suggest is if you can redo the map by the time the next hearing and come up with a proposed location if that involves a, see what difference variances than what you're applying for, it's all inherent in the same package. It's less onerous from this board's standpoint for you to move to it to an abandoned road than on River Road. So I don't see any problem with the board considering any variances that might be inherent in moving the shed at the next meeting, if that is what you decide to do.

MR. TORLEY: Close that door too hard it's going to come down on you anyway.

MR. TANNER: That is the only problem I have.

MR. LUCIA: What I suggest if you do that, get the maps to Mike cause he will have to revise the Notice of Denial which we need before we can proceed. But it can be done by the next meeting, if that is acceptable to

you.

MR. NUGENT: Judge I'd like to open it up to the public. Anybody have any comments, please keep them brief and don't be repetitious.

MR. RICHARD OSNER: 28 Bethlehem Road. I used to own that building and getting rid of the shed will improve that property completely. The only objection I have here is if you are going to have a body shop, just to repair cars, that is all right but a body shop and a dealership you're going to run into problema with a lot of cars around.

MR. DELLAFIORA: It's not an a dealership. I'm just a wholesaler.

MR. OSNER: It says dealership and that could be corrected, I'd be happy. I on property that is on the back of it Silver Springs Road and that is a great building, 12 inch block building, you'll never go wrong.

MR. DELLAFIORA: Solid structure.

MR. OSNER: And as far as I'm concerned, the only thing is it's on a slight curve for access getting in and out, that is why we put the driveway on that side there was one going through it all the way but the neighbor on the north side objected to it cause I used to plow the snow, I opened it up but she still was aggravated. That is the only thing I can see but the shed that has got to go.

MR. TORLEY: That is your prime objection?

MR. OSNER: That is the only thing it should go for safety sake.

MR. LUCIA: Mr. Osner, just so I am clear, the shed you're objecting to but if the applicant agrees to put an equivalent length storage area in the back, you have no problem with that?

MR. OSNER: No problem.

MR. LUCIA: How about the use you said you did not have a problem with a body shop?

MR. OSNER: I have no trouble with body shop at all. If it's a body shop that is going to produce good cars for auction but the dealership part in there I have a question.

MR. LUCIA: Just from the board's standpoint, is it a question or are you opposed to any auto dealership in there?

MR. OSNER: I'm opposed to it all right.

MR. LUCIA: I just need to know where he stands.

MR. OSNER: You either say one or the other.

MR. LUCIA: Are you opposed to it on the basis that you don't think the property can accommodate it? It's too small? I'd just like you to explain.

MR. OSNER: I think it would be too much activity that that property can maintain.

MR. LUCIA: When you say activity, that is traffic flow in and out of the River Road?

MR. DELLAFIORA: Picturing that like as a Ford dealership?

MR. OSNER: Used cars.

MR. LUCIA: Is there a sight distance problem?

MR. OSNER: No, no that is all I have.

MR. LANGANKE: So far we've decided that it is not going to be a used car lot, right?

MR. LUCIA: Well, he's applying for a use variance for auto body repair and used car dealership so if he granted that use, he can use it. Property is relatively small, I guess what the board has to decide

how much traffic for an operation of this size that is also an auto body shop is going to generate.

MR. DELLAFIORA: I'd be glad to put a limit if I would have to put a limit of how many cars I have to leave out front. I don't know if you are empowered to do that. Like I said, I have no intention of putting 20, 30 cars there.

MR. NUGENT: Not something like over by Gus's Tavern now?

MR. DELLAFIORA: No, no.

MR. TORLEY: Your primary intent is wholesale, not retail.

MR. DELLAFIORA: Yes, like I said, if I get something real nice, one or two vehicles out front, I mean that is the extent I do right now.

MR. TANNER: Three would be a number you'd be comfortable with?

MR. DELLAFIORA: Three, five, it's located in Cornwall all right three, three to five.

MR. TORLEY: No more than three cars out there?

MR. OSNER: Yes, that is no problem.

MR. DELLAFIORA: That is fine with me.

MR. NUGENT: Anyone else from the audience that would like to speak? Hearing none, I'll close the public hearing and open it back up to the board.

MR. LUCIA: We can't close the public hearing we need to adjourn it.

MR. NUGENT: Adjourn and we can't do anything further at this point.

MR. LANGANKE: How long does this gentlemen have to wait for the County to respond?

January 10, 1994

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MRS. BARHNART: They never respond, I'll tell you right now.

MR. LUCIA: By our next meeting we can vote.

MR. NUGENT: You're finished for tonight.

MR. LUCIA: I think we need a motion to adjourn the public hearing to January 24.

MR. TANNER: Make a motion we adjourn it till the 24th.

MR. LANGANKE: Second it.

ROLL CALL

MR. HOGAN	AYE
MR. LANGANKE	AYE
MR. TANNER	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

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Page

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 93-24

DATE: 11-24-93

APPLICANT: JOSEPH DELLA FIDRA

42 FROST LANE

CORNWALL N.Y. 12518

~~ACCESSORY USE PAGE~~

Amended NOD

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 30 JULY 1993

FOR (~~SUBDIVISION~~ - SITE PLAN)

LOCATED AT RIVER RD 416+1-NORTH OF
CLINTON ST ZONE PI

DESCRIPTION OF EXISTING SITE: SEC: 20 BLOCK: 2 LOT: 45+46

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

#1 48-14 A (1)(B)

#2 48-14 A (4)


MICHAEL BABCOCK,
BUILDING INSPECTOR

REQUIREMENTS

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE PI USE _____

APPLICANT: JOSEPH DELLA FIORA
42 FROST LANE
CORNWALL N.Y. 12518

~~ACCESSORY BLDG~~
Amended NOD

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 30 JULY 1993
FOR (~~SUBDIVISION~~ - SITE PLAN) _____

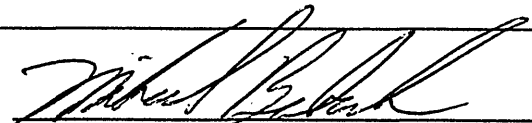
LOCATED AT RIVER RD 416+1 - NORTH OF
CLINTON ST ZONE PI

DESCRIPTION OF EXISTING SITE: SEC: 20 BLOCK: 2 LOT: 45+46

IS DISAPPROVED ON THE FOLLOWING GROUNDS: _____

#1 48-14 A (1)(B)

#2 48-14 A (4)



MICHAEL BABCOCK,
BUILDING INSPECTOR

REQUIREMENTS		PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE	<u>PI</u> USE _____		
MIN. LOT AREA	_____	_____	_____
MIN. LOT WIDTH	_____	_____	_____
REQ'D FRONT YD	_____	_____	_____
REQ'D SIDE YD.	<u>10 FT</u>	<u>0</u>	<u>10 FT</u> <i>Accessory Bldg.</i>
REQ'D TOTAL SIDE YD.	_____	_____	_____
REQ'D REAR YD.	_____	_____	_____
REQ'D FRONTAGE	_____	_____	_____
MAX. BLDG. HT.	_____	_____	_____
FLOOR AREA RATIO	_____	_____	_____
MIN. LIVABLE AREA	_____	_____	_____
DEV. COVERAGE	_____ %	_____ %	_____ %
O/S PARKING SPACES	_____	_____	_____

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

Page 2 of 4

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 93-24

DATE: 11-24-93

APPLICANT: JOSEPH DELLAFIORE

42 FROST LANE

CORNWALL N.Y. 12518

AUTO REPAIR SHOP

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 30 JULY 1993

FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT RIVER RD. 416+1 - NORTH OF

CLINTON ST.

ZONE PI

DESCRIPTION OF EXISTING SITE: SEC: 20 BLOCK: 2 LOT: 45-46

IS DISAPPROVED ON THE FOLLOWING GROUNDS: _____

#1 USE VARIANCE

#2 LOT AREA

#3 FRONT YARD RIVER RD

#4 FRONT YARD SILVER SPRING RD

#5 FRONT YARD ABANDONED RD

#6 MAX BLOB. HT.

Michael Babcock
MICHAEL BABCOCK,
BUILDING INSPECTOR

PI ZONE C ZONE REQUIREMENTS USED PROPOSED OR VARIANCE
REQUIREMENTS AVAILABLE REQUEST

ZONE _____ USE B5 + A16

MIN LOT AREA

80,000

23,345

56,655

APPLICANT: JOSEPH DELLAFIDRA
42 FROST LANE
CORNWALL N.Y. 12518

AUTO REPAIR SHOP

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 30 JULY 1993
FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT RIVER RD. 416+1 - NORTH OF
CLINTON ST. ZONE PI

DESCRIPTION OF EXISTING SITE: SEC: 20 BLOCK: 2 LOT: 45-46

IS DISAPPROVED ON THE FOLLOWING GROUNDS: _____

#1 USE VARIANCE

#2 LOT AREA

#3 FRONT YARD RIVER RD

#4 FRONT YARD SILVER SPRING RD

#5 FRONT YARD ABANDONED RD

#6 MAX BLDG. HT.

MICHAEL BABCOCK,
BUILDING INSPECTOR

PI ZONE C ZONE REQUIREMENTS USED
REQUIREMENTS PROPOSED OR VARIANCE
AVAILABLE REQUEST

ZONE _____ USE B5 + A16

MIN. LOT AREA 80,000 23,345 56,655

MIN. LOT WIDTH 200' _____

REQ'D FRONT YD 60' RIVER RD 22.8' (Garage) 37.2'

SILVER SPRING RD 53.3' 6.7'

ABANDONED RD 30.8' 29.2'

REQ'D SIDE YD. 30 _____

REQ'D TOTAL SIDE YD. 70 _____

REQ'D REAR YD. 30 _____

REQ'D FRONTAGE NA _____

MAX. BLDG. HT. 6" PER FT. = 7.5' 16' 8.5'

FLOOR AREA RATIO 0.7 _____

MIN. LIVABLE AREA NA _____

DEV. COVERAGE NA % _____

O/S PARKING SPACES _____

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 93-24

DATE: 12-21-93

APPLICANT: JOSEPH DELIAFIORA

42 FROST LANE

CORNWALL NY 12518

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 30 JULY 1993

FOR (~~SUBDIVISION~~) - SITE PLAN) _____

LOCATED AT RIVER ROAD 416 + 1 NORTH OF

CLINTON ST

ZONE

PI

DESCRIPTION OF EXISTING SITE: SEC: 20 BLOCK: 2 LOT: 45 + 46

IS DISAPPROVED ON THE FOLLOWING GROUNDS: _____

PERMITTED FREE STANDING 40 SQ FT ALL SIDES

AND ALL SUCH SIGNS NOT TO HAVE AN AGGREGATE
THAT EXCEEDS 60 SQ FT.

TOTAL SQ FT PROVIDED IN 80 SQ FT -

Michael Babcock
MICHAEL BABCOCK,
BUILDING INSPECTOR

REQUIREMENTS

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE PI USE _____

APPLICANT: JOSEPH DELIAFIORA

42 FROST LANE

CORNWALL NY 12518

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 30 JULY 1993

FOR (~~SUBDIVISION~~) - SITE PLAN)

LOCATED AT RIVER ROAD 416+1 NORTH OF
CLINTON ST ZONE PI

DESCRIPTION OF EXISTING SITE: SEC: 20 BLOCK: 2 LOT: 45+46

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

PERMITTED FREE STANDING 40 SQ FT ALL SIDES
AND ALL SUCH SIGNS NOT TO HAVE AN AGGREGATE
THAT EXCEEDS 60 SQ FT.

TOTAL SQ FT PROVIDED IN 80 SQ FT.

Michael Babcock
MICHAEL BABCOCK,
BUILDING INSPECTOR

REQUIREMENTS		PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE	<u>PI</u>		
USE			
TOTAL ALL SIGNS	<u>60 SQ FT</u>	<u>80 SQ FT</u>	<u>20 SQ FT</u>
MIN. LOT WIDTH			
REQ'D FRONT YD			
REQ'D SIDE YD.			
REQ'D TOTAL SIDE YD.			
REQ'D REAR YD.			
REQ'D FRONTAGE			
MAX. BLDG. HT.			
FLOOR AREA RATIO			
MIN. LIVABLE AREA			
DEV. COVERAGE	<u>%</u>	<u>%</u>	<u>%</u>
O/S PARKING SPACES			

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

FOR JOE DELLAFIORA

12/10/93

DELLAFIORA SITE PLAN

PROPOSED
SIGNS.

1 - FREE STANDING SIGN

DOUBLE SIDE 4'x4' = 32 □'

1 - SIGN ON BUILDING FACE

6'x8' = 48 □'

TOTAL 80 □'

EXIST.
ZONING

P1 ZONE: 1 SIGN MAX. 40 □'

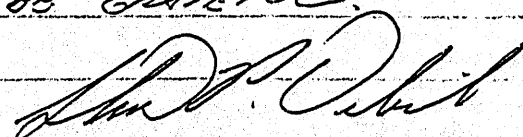
TOTAL SIGNS MAX 60'

C ZONE: ^{FREESTANDING} 1 SIGN/COT MAX. 40 □'

MIKE, WE WERE INFORMED THAT WE NEED
TO ADD TO THE VARIANCE LIST
THE VARIANCES NEEDED FOR THE
PROPOSED SIGNS AS DESCRIBED ABOVE.
I AM NOT SURE WHAT IS ALLOWED
FOR MAX. SIGN ON BUILDING FACE
FOR C ZONE.

IF YOU COULD MAKE THE NECESSARY AMENDMENT
TO YOUR FORM I WILL BE GRATEFUL.

THANK YOU,



PUBLIC HEARINGS:

~~DELLAFIORA, JOSEPH~~

MR. NUGENT: This is a continuation of a public hearing that was held two weeks ago. I'll reopen it to the public for anybody that has a comment. Hearing none, I'll close the public hearing.

MR. LUCIA: Before you do that, we should get additional data on the record. The reason we had adjourned it, we had not heard from the County Department of Planning and I see there's a letter now in the file dated January 13 of 1994 and they return it for local determination. I think also at the last meeting we talked about amending the map to relocate the existing frame garage. Do we have a new map at this point?

MR. DELLAFIORA: Not at this point but I wanted to eliminate the use variance for that shed cause it's going to be dismantled.

MR. LUCIA: Shed will be removed entirely?

MR. DELLAFIORA: Yes.

MR. LUCIA: And won't be replaced or will be replaced with something?

MR. DELLAFIORA: If in fact it's going to be replaced at this point it's not going to be replaced.

MR. LUCIA: We discussed at the last meeting was an issue if you put it in the back, it still might be too close to the abandoned road.

MR. DELLAFIORA: Cost would be too much to move.

MR. LUCIA: I think that drops out then we have two variances under Section 48-14 A for accessory building of front yard because it was forward of the building line as it was really right on the property corner. I think as well as just about right on River Road and also, no okay, that didn't apply, it was something else

okay, so that would be the variance that would drop out, just that one variance on that.

MR. BABCOCK: I wrote that up separately, Dan, I have a separate denial for that so we'll just, I'll just put down it to be removed.

MR. LUCIA: That is fine.

MR. LANGANKE: What are the sign variances for?

MR. BABCOCK: Sign variances he's allowed 60 square feet, he's proposing 80 square feet so he needs a variance of 20 square feet. There's a sheet, a calculation PI zone versus C zone and what he is applying for, you should have a copy of that. Do you want to look at that?

MR. LANGANKE: Yes.

MR. TANNER: Do you have a site plan map there?

MR. NUGENT: Not yet but I'm working on it.

MR. TORLEY: My recollection from the last meeting we were basically just waiting, he answered all the questions we were just waiting for the clearance from the County.

MR. LUCIA: That was the reason.

MR. TORLEY: They sent us a letter before, it's amazing.

MR. LUCIA: That was the reason we required it to be adjourned and they were talking about relocating the shed but the applicant now says they'll not relocate it so it's just removed entirely from the application.

MR. TORLEY: Shed will be removed.

MR. LUCIA: Right and the variances generated thereby are also removed.

MR. HOGAN: If I remember correctly, also in terms of

the used car request you were going to limit it to 2 spots?

MR. NUGENT: Three spots.

MR. LUCIA: We have a limit of three spots.

MR. BABCOCK: He is going to have one freestanding sign that is 4 foot by 4 foot which is 32 square feet each side and he is going to have one building sign that is 6 foot by 8 which is 48 square foot which is a total of 80.

MR. TORLEY: 4 X 4 or 4 X 8?

MR. BABCOCK: 4 X 4 freestanding.

MR. TANNER: Where are you putting the freestanding sign?

MR. DELLAFIORA: I don't have a spot yet.

MR. TORLEY: It will comply with the zoning?

MR. DELLAFIORA: Sure.

MR. LUCIA: 15 foot setback from River Road?

MR. DELLAFIORA: Yeah, I believe Steve Drabick is doing a new site plan.

MR. TANNER: We haven't adopted the new sign ordinance yet?

MR. LUCIA: No.

MR. HOGAN: What does it say as long as it's not obstructing?

MR. TANNER: You can put it right out to the edge as long as you're not obstructing the view coming out of the drive or whatever, that is my only concern with this.

MR. BABCOCK: This is a PI zone and there's no setback

I think that is why we didn't.

MR. HOGAN: Assuming that your ordinance is passed at some point in time, are you going to have to be involved in the siting of the sign? I would think so.

MR. BABCOCK: As far as the installation of it.

MR. HOGAN: Interfering with sight distance.

MR. TANNER: People couldn't see coming out of a driveway say they put it right next to it or something, just gives Mike some work to do.

MR. BABCOCK: Maybe we'll let them put them in and if there's a problem, they'll address it.

MR. LANGANKE: I think it will help that area what you propose.

MR. DELLAFIORA: I think so.

MR. LUCIA: Just one question back to the used cars this is just for clarity. In going through the notes of the last meeting, it sounded like the gentleman that was objecting was objecting to used cars being outside and I think I had in my notes we're talking about three cars outside, is it everyone's understanding if he has used cars inside the building--

MR. DELLAFIORA: He was afraid of a 20 car lot.

MR. LUCIA: More than 3 used cars permitted, 4, 5, 6 are inside the building, is that the board's understanding?

MR. TANNER: He was talking cars for sale.

MR. DELLAFIORA: Display spaces.

MR. LUCIA: But he could exceed three cars for sale if they are inside the building, just so everyone's clear on what the applicant is agreeing to.

MR. TORLEY: I guess we can close the public hearing

January 24, 1994

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unless the applicant has any additional, since this is a use variance, applicant submitted short form EAF which is in the file, I don't know if the board had a chance to review it. We should adopt a motion to declare ourselves involved agency in regard to the review of the applicant's request for use variance on the, assuming that the Planning Board will declare itself as the lead agency in regard to the applicant's proposal.

MR. DELLAFIORA: We have to go back with the site plan.

MR. LUCIA: We need a motion.

MR. NUGENT: Motion that we become involved agency.

EAF.

MR. TORLEY: So moved.

MR. TANNER: Second it.

ROLL CALL

MR. TORLEY	AYE
MR. HOGAN	AYE
MR. TANNER	AYE
MR. LANGANKE	AYE
MR. NUGENT	AYE

MR. LUCIA: We should also entertain a motion for the the ZBA to make a negative declaration, if that is the board's wishes under SEQRA having found that the requested use variance will not result in any significant adverse environmental impact.

neg.
dec.

MR. TORLEY: Hold on a second till I read the form.

MR. NUGENT: Can I have that motion?

MR. TORLEY: I move we find a negative declaration.

MR. TANNER: Second it.

ROLL CALL

January 24, 1994

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MR. TORLEY	AYE
MR. HOGAN	AYE
MR. TANNER	AYE
MR. LANGANKE	AYE
MR. NUGENT	AYE

MR. LUCIA: Entertain a motion on the variances sought by the applicant.

MR. NUGENT: I'll accept a motion.

MR. TANNER: Make a motion we grant the variances requested.

MR. HOGAN: Second it.

ROLL CALL

MR. TORLEY	AYE
MR. HOGAN	AYE
MR. TANNER	AYE
MR. LANGANKE	AYE
MR. NUGENT	AYE

MR. HOGAN: Just in terms of clarification, we removed one of these variances for the shed, is that correct?

MR. LUCIA: That is correct.

MR. HOGAN: Number 7 in our agenda.

MR. NUGENT: Yes, number 7.

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

93-48

Date: 12/07/93

I. Applicant Information:

- (a) DELLAFIORA, JOSEPH J., 42 Frost Lane, Cornwall, N.Y. 12518 x
(Name, address and phone of Applicant) 534-9325 (Owner)
- (b) -
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) Steven P. Drabick, L. S., P.O. Box 539, Cornwall, N. Y. 12518
(Name, address and phone of ~~contractor/engineer/architect~~
Surveyor

II. Application type:

- (x) Use Variance (x) Sign Variance
- (x) Area Variance () Interpretation

III. Property Information:

- (a) PI River Road at Clinton Street 20-2-45/46 23,345 s.f. +
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 11/93
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? Yes
If so, when? 1970
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: _____

_____.

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section 48-9, Table of Use/Bulk Regs., Col. A, to allow:

(Describe proposal) Auto body repair shop and used car dealership.

Use not permitted in PI zone.

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(See annexed recitation)

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. C, E, F, I, N. Also Section 48-14A(1) (b) and 48-14A(4)

Requirements	Proposed or Available	Variance Request
Min. Lot Area <u>80,000 s.f.</u>	<u>23,345 s.f.</u>	<u>56,655 s.f.</u>
Min. Lot Width <u>200 ft.</u>	<u>-</u>	<u>-</u>
River Rd.: Req'd. Front Yd. <u>60 ft.</u>	<u>22.8 ft.</u>	<u>37.2 ft.</u>
Silver Spring Rd.:	<u>53.3 ft.</u>	<u>6.7 ft.</u>
Abandoned roadway:	<u>30.8 ft.</u>	<u>29.2 ft.</u>
Accessory Bld. Req'd. Side Yd. <u>10 ft.</u>	<u>0</u>	<u>10 ft.</u>
Total Side Yd. <u>70 ft.</u>	<u>-</u>	<u>-</u>
Req'd. Rear Yd. <u>30</u>	<u>-</u>	<u>-</u>
Req'd. Street Frontage* <u>n/a</u>	<u>-</u>	<u>-</u>
Max. Bldg. Hgt. <u>7.5 ft.</u>	<u>16 ft.</u>	<u>8.5 ft.</u>
Min. Floor Area* <u>0.7</u>	<u>-</u>	<u>-</u>
Dev. Coverage* <u>n/a</u> %	<u>-</u> %	<u>-</u> %
Floor Area Ratio**		
Parking Area		

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(See annexed recitation)

(You may attach additional paperwork if more space is needed)

VI. Sign Variance:

- (a) Variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. N.

*Total variance request for both signs.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Freestanding: Sign 1 *)	<u>60 s.f.</u>	<u>80 s.f.</u>	<u>20 s.f.*</u>
Wall facade: Sign 2 *)	<u> </u>	<u> </u>	<u> </u>
Sign 3	<u> </u>	<u> </u>	<u> </u>
Sign 4	<u> </u>	<u> </u>	<u> </u>

- (b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(See annexed recitation)

- (c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

Total signage proposed is 80 s.f.

VII. Interpretation. n/a

- (a) Interpretation requested of New Windsor Zoning Local Law, Section , Table of Regs., Col. .

- (b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

The zoning district is designated as PI which is planned industrial. Applicant feels that his proposal of an auto repair shop and used car sales will not change the character of the neighborhood nor deter any of the safeguards which will ensure the quality of the zone.

IX. Attachments required:

- x Copy of referral from Bldg./Zoning Insp. or Planning Bd.
x Copy of tax map showing adjacent properties.

Under the applicable zoning regulation, the applicant herein is deprived of all economic use or benefit from the property in question, which deprivation is established by the following evidence:

Applicant acquired the parcel in question through a purchase from ACS Properties, Inc. in October of 1993. The previous owner tried for many years to market the parcel which is located in a PI zone but up until the time applicant purchased the property, had little or no success in doing so. The building located on the parcel was vacant for approximately two years, having been vacated by The Tank Guys.

Applicant intends to construct an addition to the existing masonry building and utilize the building as an auto body repair shop and used car dealership. He has recently moved his operation, which is a state registered automobile repair shop with special emphasis on auto body repair, from Newburgh to New Windsor. Applicant intends to reconstruct the existing garage which fronts on River Road and utilize this garage for the storage of materials. Since the parcel is located in a PI zone, this use is not a permitted use. Therefore, applicant is seeking a use variance from the Zoning Board of Appeals.

Applicant was informed at the preliminary meeting before the ZBA that since this type of shop is not permitted in a PI zone, the Board would feel more comfortable if the bulk regulations from the C (design shopping) were used instead of the PI regulations. The use of the C zone bulk regulations creates several area variances for applicant to seek, including, 56,655 s.f. lot area, 37.2 ft. front yard on River Road, 6.7 ft. front yard on Silver Spring Road, 29.2 ft. on the abandoned roadway, 10 ft. side yard and 8.5 ft. maximum building height. Also, applicant is seeking a variance from Section 48-14A(1)(b) of the Zoning Local Law which requires that accessory buildings be set back 10 ft. from the lot line and Section 48-14A(4) which provides that no accessory building shall project nearer to the street than the principal building on which it fronts. Applicant also intends to seek sign variances for one 4 x 4 s.f. free-standing, double faced sign on the River Road side, plus a 6 ft. x 8 ft. sign on the building facade. Applicant has presented a site plan which establishes the lot size of the parcel in the PI zone. Unfortunately this parcel is grossly undersized when compared to the bulk regulations in the PI zone and applicant feels that he cannot get a reasonable return from the property in question since all of these are very high bulk regulations. The normal size lot indicated in the PI zone is 80,000 s.f. Applicant has only 23,345 s.f. lot area.

Applicant will present evidence to substantiate the fact that he will not alter or change any of the existing front yards or lot area. There will be a minor change to the side yard because of the proposed addition to the existing masonry building. Applicant will also present evidence and photographs which will show the adjacent neighboring parcels as commercial

and industrial type businesses in order to establish the character of the neighborhood. There are several petroleum businesses including large fuel tanks along River Road. Located down the roadway about one-half mile is a vacant body shop, there is a bar, a construction company and several residences.

Applicant feels that the granting of the variance will not be detrimental to the health, safety or welfare of the neighborhood or community since there will be basically no changes other than extensive improvements which will make a dramatic difference in the parcel.

Applicant has stated previously and now reiterates that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district since there are many other commercial operations in the immediate area.

The difficulties stated above are self-created since the Applicant knew when he purchased the parcel that several variances would have to be sought before he could establish his auto repair and used car sales operation. By making this application to the Board for the variances required, applicant hopes to alleviate the situation.

The only feasible method which applicant can pursue is the variance process in view of the fact that this is a PI zone and an auto repair shop and used car dealership are not permitted.

The Applicant respectfully requests that the Zoning Board of Appeals grant the use, area and sign variances sought by Applicant.

STEVEN P. DRABICK



PROFESSIONAL LAND SURVEYOR

PO BOX 539, CONTINENTAL RD.
CORNWALL, NEW YORK 12518

(914) 534-2208



VARIANCES NEEDED IN C-ZONE - A4 & 16

ITEM	EXISTING CONDITION	REQUIRED	AMOUNT OF DIFFERENCE	VARIANCE REQUESTED
USE				PROPOSED AUTO BODY REPAIR & USED CAR DEALERSHIP
LOT AREA	23,345	40,000 SQ.FT	16,655 SQ.FT.	AUTO BODY SHOP
	23,345	80,000 "	56,655 "	USED CAR DEALERSHIP
FRONT YD DEPTH	22.8'	60'	37.2'	FRONT YARD TO RIVER ROAD
	53.3'	60'	6.7'	FRONT YARD TO SILVER SPRING ROAD
	30.8'	60'	29.2'	FRONT YARD OF PROPOSED ADDITION TO ABANDONED ROAD RUNNING FROM SILVER SPRINGS RD TO RIVER RD ALONG NORTHERLY SIDE OF PROPERTY
BLDG HT	16'(15.6)	7.5'	8.5'	BLDG HT BASED ON 4" PER FT OF DISTANCE TO NEAREST PROPERTY LINE AT 22.8'
ACCESSORY BUILDING				
SIDE YD.	0'	10'	10'	SIDE YARD
FRONT YD.	0.5'	22.8'	22.3'	FRONT YARD TO RIVER ROAD DUE TO GARAGE BEING IN FRONT OF PRINCIPAL BLDG.

1/10/94 Public Hearing: Dellafiora, Joseph -

Name:

R.A. Ostrow

Christine Ostrow

Address:

82 Bethlehem Rd New Windsor

82 Bethlehem Rd N.W.



Rec'd.
2BA - 1/18/94

(PAB)

CL 2BA
Memb.

**COUNTY OF ORANGE
DEPARTMENT OF PLANNING**

124 MAIN STREET GOSHEN, NEW YORK 10924-2124
TEL. (914) 294-5151 EXT. 1770 FAX: (914) 294-3546

Joseph G. Rampe
County Executive

Peter Garrison
Commissioner of Planning

**ORANGE COUNTY DEPARTMENT OF PLANNING
239 L, M OR N REPORT**

R. Vincent Hammond
Deputy Commissioner

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by:

Town of New Windsor

OCDP Reference No.: NWT 10 93 M
County I.D. No.: 20 2 45,46

Applicant:

Joseph Dellafiora

Proposed Action:

Use & Area Variance - Expansion of Auto Body Repair and Used Car Dealership

State, County, Inter-Municipal Basis for Review:

Within 500' of US Rte. 9W

Comments:

There are no significant inter-municipal or countywide considerations to bring to your attention.

Related Reviews and Permits:

County Action: Local Determination X

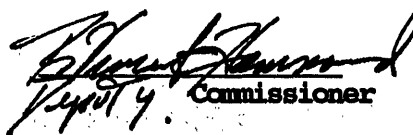
Disapproved

Approved

Approved subject to the following modifications and/or conditions:

Date:

1/13/94


Peter Garrison
Commissioner

RECEIVED JAN 18 1994

20-2-45

Application No. _____ Permit No. 167-1970

#20-26.

Building Department
 (CITY, TOWN OR VILLAGE) OF NEW WINDSOR 555 UNION AVE
 (Address and Telephone Number)

County of: ORANGELocation: RIVER ROAD

Map No.: _____ Section: _____ Block: _____ Lot: _____

Certificate of OccupancyNo. 35-1972Date MAY 31 1972

THIS CERTIFIES that the building located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated DEC 10 1970, pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law. The occupancy for which this certificate is issued is STORAGE & SALES OF BUILDING SUPPLIES

AREA VARIANCE GRANTED BY BOARD OF APPEALS NOVEMBER 1970

This certificate is issued to EDWARD JOLLIE
 (owner, lessee or tenant)
 of the aforesaid building.

Howard R. [Signature]
 Superintendent of Buildings

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy.)

7 Franklin Ave.
New Windsor, N. Y. 12550
November 22, 1970

Howard Collett, Bldg. Inspector
Town of New Windsor
Town Hall - 555 Union Ave.
New Windsor, N.Y. 12550

Re: Application No. 70-26

Dear Mr. Collett:

Please be advised that the above application for a variance of Edward and Olive Jollie has been approved by the Zoning Board of Appeals at a meeting held on Monday, November 16, 1970.

Yours very truly,

Patricia Dello,
Secretary

cc: Mr. and Mrs. Edward Jollie
32 Willow Lane
New Windsor

Theodore F. Marsden, Supervisor

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----x
In the Matter of Application for Variance of

Joseph Pellafigora,

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#93-48.

-----x
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On December 22, 1993, I compared the 36 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
21st day of December, 1993.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984066
Commission Expires July 15, 1995

(TA DOCDISK#7-030586.AOS)

November 8, 1993

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ACS PROPERTIES, INC./DELLAFIORA

MR. NUGENT: Request or use variance and possible area variances for an auto body repair shop and used car dealership to be located on River Road in a PI zone.

Mr. Joseph Dellafiora appeared before the board for this proposal.

MR. DELLAFIORA: I just purchased the property and I have an existing auto repair and body shop business up in the Town of Newburgh and I want to be able to move it into the building and this is my first appearance. Steve Drabick has been handling it before the Planning Board and he prepared the site for me, the site plan.

MR. LUCIA: Did you say you're now currently the owner of the property?

MR. DELLAFIORA: As of last week. Right across from Affron's.

MR. LUCIA: We can drop ACS Properties Inc. it's just in your name?

MR. DELLAFIORA: Right just in my name.

MR. TANNER: What's there now?

MR. DELLAFIORA: Just empty block building,

MR. NUGENT: Used to be the tank guy.

MR. DELLAFIORA: Yes, then I think it was a metal building, guy was in there for a while. It's been empty for about a year and a half. We want to expand into this area.

MR. NUGENT: That is not allowed in a PI zone.

MR. BABCOCK: No body shop, well, what we have in our code book is auto repair and service garages, we don't have anything for body shops and that is not permitted in a PI zone.

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MR. NUGENT: That is not considered automobile repair?

MR. BABCOCK: Yes, it is but that is automobile repair is not permitted in a PI zone.

MR. LUCIA: Use table that you are looking at in the upper left corner, the word is A-C zone and he apparently has used C zone use is A 4 which is service establishment, other than personal service and B 5 with a special permit allows garages, those are the tables he's using. I should mention to you in a C zone, under use A 16 used car sales are also permitted but it would increase his bulk requirement variance request because he'd need 80,000 square foot lot area for used car sales probably helps him a little on height because that jumps up from six to four inches. That building is some 33 feet high, is that what I am reading?

MR. DELLAFIORA: I don't know the dimensions. I don't believe it's that high. It can't be 30 feet.

MR. LUCIA: You might check with Drabick.

MR. NUGENT: That can't be, building be 20 feet high.

MR. LUCIA: Have him doublecheck.

MR. DELLAFIORA: The length probably more than likely is 30, 33 feet.

MR. LUCIA: So we face this question every time we import a table into a zone, I'll leave it to the board's discretion what use category we want to use for this.

MR. TORLEY: Before we get to that point, we have to get by, do we want to consider this does in fact require a use variance?

MR. BABCOCK: Yes on the denial, the way that we did it was see we put right on the denial use variance required, area variances may also be required, depending on what table we use and on the bottom we just put to be determined by the ZBA and whatever bulk regulations you gentlemen think that should apply,

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PENGAD CO., BAYONNE, NJ 07002 - LASER BOND-A

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we'll use and we'll do the calculations from there.

MR. TORLEY: What's the closest permitted use to auto body repair in a PI zone?

MR. BABCOCK: There's some two uses, I don't know if mine and your determinations would be the same on that.

MR. LUCIA: I looked at it this afternoon, I think probably a variation on manufacturing operation would be as close as you come because they spell out manufacturing like finishing and something that might vaguely be related the auto body. Use A 15 would be manufacturing, assembling, converting, altering, finishing, cleaning, or any other process or incidental storage of products and storage involved in use oil or gas, or fuel.

MR. BABCOCK: Quite honestly, I think any requirement that we use is going to need several area variances.

MR. TORLEY: Area variances are not as much concern as possibility requiring a use variance since the way the State Law has been reinterpreted by the courts, Mike, it is very hard to justify granting one so I am trying to see if there's some way we can read automobile repair, auto body, rebuilding automobiles and refinishing them.

MR. DELLAFIORA: I'm a State registered automobile repair shop now that allows you up to 50% of your work to be auto body work under my license the State registered license so if that would help.

MR. LUCIA: Unfortunately.

MR. DELLAFIORA: The corporation itself is automobile center, doesn't state body shop in it.

MR. LUCIA: Auto repair isn't permitted in the zone so it doesn't help.

MR. TORLEY: Is there any way we can place what you want to do as a permitted use in the zone, if it is a permitted use then you have to go for a use variance

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which is very difficult.

MR. BABCOCK: In a C zone and that is why we picked it and put it on the plan.

MR. TANNER: Only in a C zone?

MR. BABCOCK: Well, you have automobile repair shop in a NC zone also.

MR. TORLEY: What are the other properties around there?

MR. NUGENT: There was I think he went out of business, there's another body shop quarter of, less than a quarter mile down the road.

MR. LANGANKE: Is there any zoning difference right on the road there or is that all one zone?

MR. NUGENT: Total PI.

MR. BABCOCK: PI runs all the way back up to 9W.

MR. NUGENT: PI allows oil tanks?

MR. BABCOCK: Yes.

MR. TANNER: There are houses on that side of the road, correct?

MR. TORLEY: There are?

MR. BABCOCK: Yes.

MR. TANNER: Maybe it's closer to NC zone.

MR. NUGENT: There's one right next door.

MR. TORLEY: Trouble is even though operationally and the environment is like an NC zone but happens to be zoned PI.

MR. TANNER: I'm thinking if we have to pick another zone maybe NC.

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PENGAD CO., BAYONNE, NJ 07002 - LASER BOND-A

MR. LUCIA: I'm not--

MR. BABCOCK: Well, the NC, the lot area is less restrictive.

MR. NUGENT: Still looking for a use.

MR. BABCOCK: Yes.

MR. NUGENT: That is the big hurdle.

MR. BABCOCK: Actually, the lot area, the lot width, the front yard, the side yards basically are all there, we're not going to change any of that. The lot area is the lot area of that lot, the lot width is the lot width, front yard setback is staying the same. We're changing one side yard if they get approval to put the addition on, other than that, all the basic area requirements we're not going to change, the building is existing and the lot is existing. So basically whatever table we use is going to need lot area, lot width basically.

MR. NUGENT: The biggest hurdle is the use.

MR. BABCOCK: Right.

MR. NUGENT: I don't know how we're going to address that. You can't send him to the Town Board and have a zoning change then they are spot zoning cause you have got an entire PI zone, I think he just has to jump the hurdles.

MR. TORLEY: You're right, you couldn't ask for spot zoning that would be improper.

MR. HOGAN: Maybe it's about time we looked at some of these zones too. I'd like to get that in the minutes.

MR. NUGENT: Majority of the businesses on that road are allowed in a PI zone.

MR. HOGAN: When these zones were established some years back and they were done with the best intentions

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and maybe a little bit rose colored glasses in terms of planned industrial in the Town of New Windsor, I'm not sure how much we're going to see.

MR. TORLEY: Most of the stuff that is down there with the exception of houses really is industrial or what we would think of industrial. Maybe it doesn't fit the exact definition of PI zone but it's what I think of as industrial.

MR. TANNER: I don't have a problem with this type of establishment in a PI Zone. I would feel if they were going to look into it that is something you'd allow. Not necessarily changing the zoning but changing the definition of what's in the zone needs to be looked at as we've talked about beauty parlors and veterinary things.

MR. TORLEY: Clearly to me an auto body repair shop is something that is compatible with a PI zone.

MR. NUGENT: Except you wouldn't want it in R4.

MR. TORLEY: Nope but unfortunately the code is not written that way as of the moment.

✓
MR. LUCIA: Certainly the size of the lot reflects the proof the applicant couldn't get a reasonable return since those are all fairly high bulks, it would be difficult to cram any kind of PI use onto a piece this size and shape. And that can form part of your proof if the board sets you up for a public hearing when you come back.

MR. NUGENT: Should we do that first or would you like to do your thing?

MR. LUCIA: Are you happy with the C tables he has on there?

MR. TANNER: Is the NC less?

MR. LUCIA: NC doesn't make a dramatic difference other than lot area.

MR. BABCOCK: I think so.

MR. LUCIA: Used car sales would not be permitted in the NC.

MR. BABCOCK: That is right.

MR. TANNER: C is fine with me.

MR. LUCIA: To say that the lot area on the used car sales in the C zone is a little bit greater and he's using the ones more favorable to him on this.

MR. NUGENT: The only one he's short on is the lot area.

MR. TORLEY: No matter what he does, it's going to be lot area.

MR. LUCIA: So it really effects the magnitude of the variance we give him or we ask him to apply for, I should say.

MR. NUGENT: We need to put that to a vote.

MR. LUCIA: I don't think we need to vote on it as long as he has an understanding that we're accepting an importation of the C bulk tables for his area variance request.

MS. BARNHART: You'll fill in the numbers.

MR. BABCOCK: On the front yards I can once the use is being changed, is that no longer pre-existing measurement and that would be a variance, right?

MR. LUCIA: I think I would call it a variance and he can as part of his proof explain that he physically is not changing except for the one addition of the building so the front yard is no different than it used to be but he's applying for the variance as part of this application.

MR. NUGENT: Other thing he needs to verify the height of the building cause I know it's not 30 feet high.

MR. TANNER: Gor area 1,600?

MR. LUCIA: Gor is a gap between two adjacent deeds and apparently when Steve Drabick plotted it out, he came up with the dimension in the heavy dark line.

MR. TANNER: No one owns that.

MR. LUCIA: It could be claimed by either side that was one of the questions I was going to refer back to Steve on the area variance computation, you have to exclude things like the gor and along the front there's a taking for River Road and right-of-way and I think there's also up on Spring Street a little triangle.

MR. NUGENT: That was a road at one time.

MR. LUCIA: It has to be a deed that doesn't square with what they show as current dimensions but check with Steve that he is using the minimum area computations to remove that gor and to remove the triangle that apparently is to be conveyed to the Town for Spring Street and along River Road for the right-of-way utility easement.

MR. HOGAN: What kind of shape is that garage in in the corner of the property?

MR. DELLAFIORA: Just a wooden structure, solid, it looks solid to me, yeah.

MR. BABCOCK: They are going to need some area variances for that for being in the front yard.

MR. NUGENT: Too close to the side yard.

MR. BABCOCK: Front yard and side yard.

MR. NUGENT: Do you have any major uses or designs for the building?

MR. DELLAFIORA: I was going to use it for storage of parts, sheet metal.

MR. BABCOCK: You should do it while it's there.

MR. NUGENT: Include it in it.

✓ MR. LUCIA: That would involve 4814 A 15 B of the ordinance, an accessory building setback less than ten feet from a lot line and also 4814 A 4 which provides that no accessory building shall project nearer to the street than the principal building on which it fronts.

MR. BABCOCK: And also side yard, Dan.

MR. LUCIA: Side yard variance also, correct.

MR. BABCOCK: And also a front yard.

MR. LUCIA: Right.

MR. BABCOCK: Of ten feet side and front.

MR. LUCIA: Right.

MR. BABCOCK: You have to get Mr. Drabick to address all those issues and give us the calculations once he has to measure the building and then I'll fill out a new sheet and get it back to the board.

MR. LUCIA: We understand what you're doing but just a matter of getting every variance you need layed out now.

MR. DELLAFIORA: Next procedure?

MR. LUCIA: As long as the building inspector can write a denial based on data he gets from Mr. Drabick, if the board sets you up as long as we have that denial before the public hearing, I think the board is satisfied. They understand what it is you're proposing.

MR. TANNER: I make a motion we set him up for a public hearing.

MR. LANGANKE: Second it.

ROLL CALL

MR. TANNER	AYE
MR. HOGAN	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. LUCIA: Before you go, I'll also give you a copy of Section 267B of the Town Law and I put two arrows in the margin there opposite the standards this board has in order to grant you a use variance and an area variance. There are 4 items you have to meet on the use variance, they are listed there. The first one has to do with under the applicable zoning regulations your deprived of all economic use or benefit from the property in question which deprivation is established by competent financial evidence. I don't know if you want to bring in somebody from the prior owner or somebody who might have been listing it to show the history they've had and the difficulty they've had in trying to dispose of the building because that would effect its economic return. (From your standpoint, you can show why it is you can't use it for PI uses given the available lot area and the size and shape of the lot. The second one is that the alleged hardship is unique and does not apply to the substantial portion of the district or neighborhood. What you have to do is show why this property is different. Maybe size, shape or types of things that are permitted in the PI zone. The third that the requested use variance if granted will not alter the character of the neighborhood. So you might want to come in with a listing of what kinds of uses are on both sides of the road going out a little bit of distance in the PI zone so the board has some feeling. And last that it is not self-created and that would be since you are a new purchaser with proposed use, I'd just explain the configuration of the property, how long the property has had these dimensions in this building. I'll also need that on the record for purposes of things that are pre-existing. If you are telling us that there are conditions on the property that pre-exist zoning, let us know how long the building has been there or if you can find it out from the prior owner. Since this is a use variance, we'll need a short form EAF. There's a

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cover sheet there, follow that, fill out the application, fill out the short form EAF, return to it Pat. Any questions, give her a call. We also need Orange County Department of Planning referral on this, it's a use variance for our purposes and we also would like the copy of deed, title policy and some photographs of the site, please. Under the area variance which is the second arrow, there's 5 factors that is a little lower hurdle. Read those over and when you come back be prepared to speak to those 5 issues. It's two separate variances but the use is the more difficult one. Good luck to you. When you submit that application, we need two checks both payable to the Town of New Windsor. One for \$150 application fee since this is commercial property and second for \$510 deposit against Town consultant review fees and various disbursements the board has.

MS. BARNHART: It's all listed on that.

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TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

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November 18, 1993

Mr. Joseph J. Dellafiore
42 Frost Lane
Cornwall, NY 12518

Re: Tax Map Parcel #20-2-42.2

Dear Mr. Dellafiore:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$45.00, minus your deposit of \$25.00. Please remit the balance of \$20.00 to the Town Clerk's office.

Sincerely,

Leslie Cook / po
LESLIE COOK
Sole Assessor

LC/po
Attachments
cc: Pat Barnhart

Ostner, Richard & Christine
RD #2, Box 346
Bethlehem Rd.
New Windsor, NY 12553

Shramek, Michael T.
d/b/a Home Tech Builders
8 Ashwood Terrace
Newburgh, NY 12550

Tubbs, William Elwood & Jean
19 Silver Spring Rd.
New Windsor, NY 12553

Fortunis, Harry J.
39 Dogwood Lane
Newburgh, NY 12550

Masloski, Stanley
70 River Rd.
New Windsor, NY 12553

ACS Property, Inc.
75 River Rd.
New Windsor, NY 12553

Duquette, Joseph A. & Marion C.
22 Silver Spring Rd.
New Windsor, NY 12553

Roos, Richard D. & Lance R.
82 River Rd.
New Windsor, NY 12553

Sayles, Philip & Yvette
6 Silver Spring Rd.
New Windsor, NY 12553

Krieger, James S. & Susan F.
Route 94, RD #2, Box 101
New Windsor, NY 12553

Klein, William
RD #3, Box 243
Wallkill, NY 12589

Canada Oil Corp.
1 Valley Street
Hawthorne, NJ 07506

Lucas, Michael & Arlene J.
27 Cullen Ave.
New Windsor, NY 12553

Raich, Abraham &
Benzaken Andrew &
Barone, Celia
c/o Andrew Benzaken
180 Cabrini Blvd.
New York, NY 10033

Murray, Mary
5 Silver Spring Rd.
New Windsor, NY 12553

Toback, Dorothy Ann &
Crawley, Roxanne D.
28 Carter Ave.
Newburgh, NY 12550

Sun Company, Inc. (R&M)
10 Penn Center
1801 Market St.
Philadelphia, PA 19103

George, Ada Elizabeth
21 Downing Ave.
Newburgh, NY 12550

Littman Industries, Inc.
65 River Rd.
New Windsor, NY 12553

Consolidated Rail Cprp.
Property Tax Dept.
PO Box 8499
Philadelphia, PA 19101

Belcher Co. of NY, Inc.
c/o Coastal Fuels Marketing, Inc.
PO Box 4372
Houston, TX 77210

SCHEDULE ATITLE NO. JT-0-93173EFFECTIVE DATE 6-10-93

Prepared for: Warren Greher, Esq.

Premises: 90 River Road

County	Town/City	District	Sec	Block	Lot
Orange	New Windsor		20	2	45 & 46

Policy or Policies to be issued:

[☒] ALTA Owner's Policy 1990 (With N.Y. Endorsement Modifications) \$ 85,000.00
Proposed Insured: Joseph J. & Victor Dellafiora

[☐] ALTA Lender's Policy 1990 (With N.Y. Endorsement Modifications) \$ _____
Proposed Insured:

Borrower:

The estate or interest in the land described or referred to in this Certificate and covered herein is:

Fee Simple

Title to said estate or interest in said land at the effective date hereof is vested in:

ACS Property, Inc. by deed dated 3-11-93 recorded 3-26-93 Liber 3785
p 248 made by Big Saver, Inc.
[Source of title]

The land referred to in this Certificate is described as follows:
(If not described here, as on page 2 of this Schedule).

NOTE: This Certificate is intended for lawyers only. Such exceptions as may be set forth herein may effect marketability of title. Your lawyer should be consulted before taking any action based upon the contents hereof. The Company's representative at the closing hereunder may not act as legal advisor to any of the parties or draw legal instruments for them. Such representative is permitted to be of assistance only to an attorney. It is advisable to have your attorney present at the closing.

SCHEDULE B

TITLE NO. JT-0-93173

The policy will not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of the following exceptions unless they are disposed of to our satisfaction:

1. Taxes, tax liens, tax sales, water rates, sewer and assessments set forth in schedule herein.
2. Mortgages returned herein (none). Detailed statement within.
3. Any state of facts which an accurate survey might show.
or
Survey exceptions set forth herein.
4. Rights of tenants or persons in possession.
5. Covenants, conditions, easements, leases, agreements of record etc., more fully set forth in Schedule herein:
 - a. Easements in Liber 2226 cp 42, Liber 1518 cp 385 and Liber 2690 cp 275.
 - b. Agreement in Liber 1550 cp 140.
6. New York State Franchise tax that may be due and owing by ACS Properties, Inc.; Big Saver, Inc.; Bis S Oil Co., Inc.; Heritage Oil Delivery Services, Inc.
7. Underground encroachments and easements, if any, including pipes and drains and such rights as may exist for entry upon said premises to maintain and repair the same.
8. The amount of acreage is not insured.
9. No title is insured to any land lying within the lines of any street, road, avenue, lane, turnpike, or highway in front of or adjoining the premises described in Schedule "A" or which may cross over the same.
10. Subject to rights and easements, if any acquired by any public utilities company to maintain its poles and operate its wires, lines, etc., in, to and over the premises herein and in, to and over the streets adjacent thereto.
11. No personal inspection having been made by this Company, policy will except any state of facts an inspection would disclose.

NOTE: If the subject transaction is one involving a sale subject to the mortgage(s) returned in item number 2 above, and since many lenders now have the mortgage instrument state that the debt will become due and payable the option of the mortgagee upon any transfer of title, it is recommended that the applicant examine the mortgage document(s) as well as the note(s) and bond(s) and any agreement modifying said mortgage(s) or make inquiry of the mortgagee of the current terms of such instruments especially with respect to acceleration of the maturity date in case of sale. Upon request, we will obtain and furnish a copy of the recorded mortgage(s) for cost.

TRW

SCHEDULE B CONTINUED

12. The courses stated in the description will not be insured in the absence of a satisfactory survey certified to the Company.
13. Riparian rights, if any, in favor of the premises herein are not insured.
14. Rights of others to drain through creeks or streams, if any, which cross premises and the natural flow thereof will be excepted.

TRW Title Insurance of New York Inc.

SCHEDULE A (Description)

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, Orange County, New York, and which parcels are described as follows:

Parcel I

Beginning at a point in the westerly line of River Road at the intersection of same and the northerly line of premises described in deed Harry L. Stanley, as Treasurer of the County of Orange, to Elizabeth Allen Tubbs, dated April 9, 1941 and recorded May 17, 1941 in Liber 861 of Deeds page 90 and from said point of beginning running thence along the northerly line of premises conveyed to Elizabeth Allen Tubbs, as aforesaid, North 50° 58' West 99.75 feet, more or less, to the point of beginning of the thirteenth course mentioned and described in the first tract of Deed from the Turl Iron and Car Company, Inc. to Saddle River Oaks, Inc., recorded in Liber 1117 of Deeds, page 260 to 263; thence North 37° 32' East 41.25 feet; thence North 48° 16' West 44.85 feet; thence North 37° 11' East 32.11 feet to the southerly line of former lane known as Old Road; thence along the southerly line of said Old Road North 72° 57' East 137.44 feet to a point; thence South 61° 13' 30" East 43.80 feet, more or less, to a point on the westerly line of aforesaid River Road; thence along the said westerly line of River Road South 31° 16' 30" West 199.0 feet to the point or place of beginning

Parcel II

Beginning at a point in the westerly line of River Road at the intersection of same and the northerly line of premises described in deed Harry L. Stanley as Treasurer of the County of Orange to Elizabeth Allen Tubbs, dated April 9, 1941 recorded May 17, 1941 in Liber 861 of deeds page 90, and from said point of beginning, running thence along the westerly line of River Road South 31° 16' 30" West for 42 feet, more or less, to the intersection of said westerly line of River Road with the southerly line of the parcel herein described; thence North 50° 58' West 102.75 feet, more or less, to a point on the southeasterly side of Silver Spring Road; thence along said side of Silver Spring Road, North 37° 32' to a point where said road curves to the northwest; thence South 50° 58' East for 102.75 feet to the point or place of beginning.

TRW Title Insurance of New York Inc.

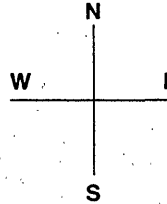
TAX SEARCH

TITLE NO.

JT-0-93173

Big Saver, Inc.

90 River Road
T/O New Windsor



The tax search made herein covers only the premises shown on diagram, and no search is made against any part of the street on which said premises abut.

Section 20

Block

2

Lot 45 & 46

Assessed Valuation

20-5-45

20-5-46

Land \$ 9,600.00

1,100.00

Total \$ 20,900.00

1,400.00

Some items returned hereon may have been paid but payment not officially posted. Receipted bills should be produced on closing. Policy does not insure against items not a lien up to the date of the policy, nor for installments for assessments due after date of this policy. Policy does not insure against pending assessments.

If premises are benefitted by a Real Estate Tax Abatement personal to an exempt owner; additional taxes may accrue or may have accrued due to a change in ownership or possession. Any restored taxes from the date of transfer of title or possession from the exempt owner, must be fixed and paid prior to closing of title.

20-5-45

1993 State, Town and County Taxes \$1262.96 Paid

1992 State, Town and County Taxes \$1293.87 Paid

1992/93 School Taxes \$921.13 Paid 3-4-93

20-5-46

1993 State, Town and County Taxes \$121.01 Paid

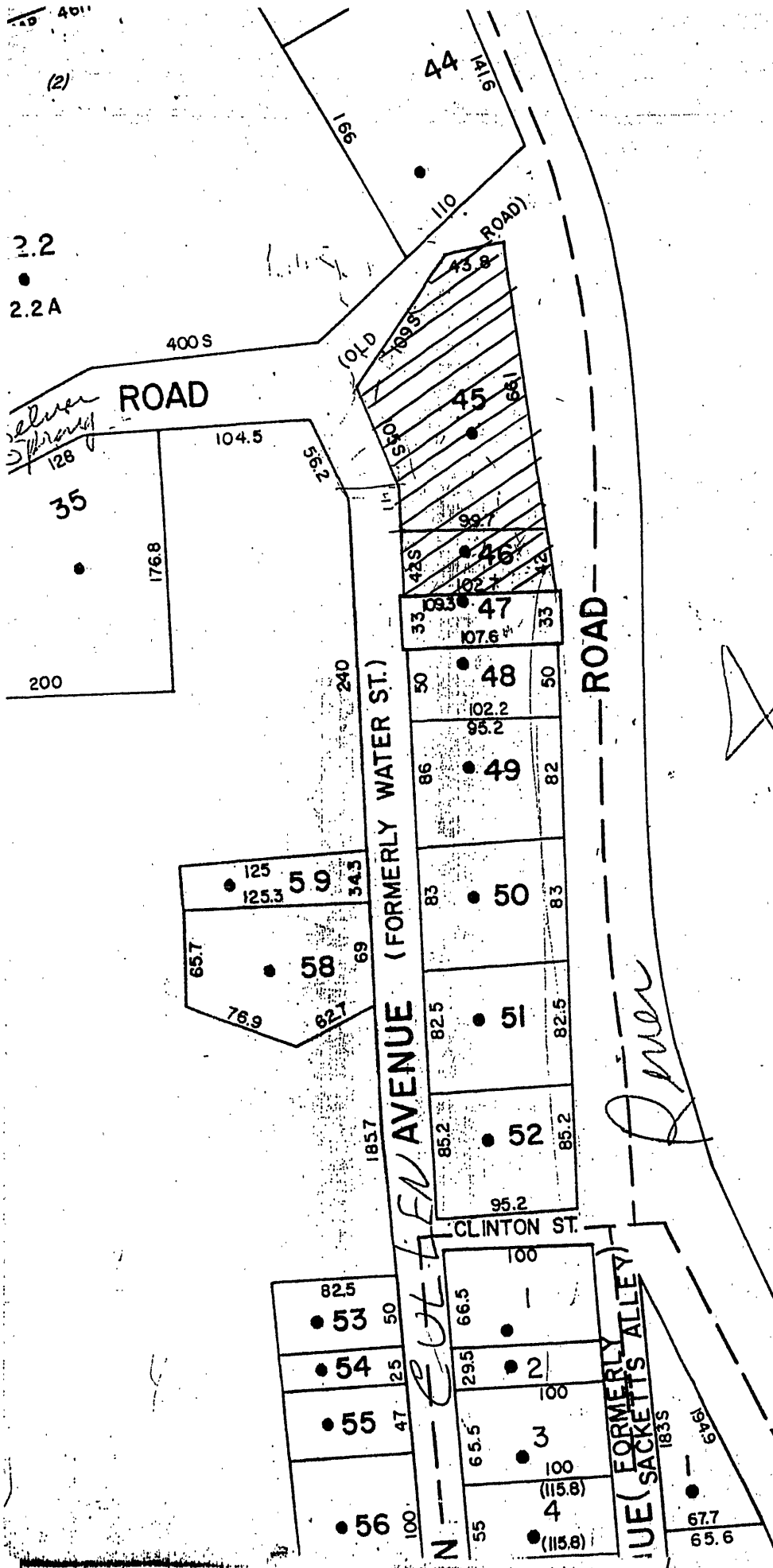
1992 State, Town and County Taxes \$128.27 Paid

1992/93 School Taxes \$61.70 Paid 3-4-93

FOR INFORMATION:

The policy does not insure against water meter and sewer rental charges accruing since the date of the last reading, nor charges which may have accrued prior thereto which charges are entered subsequent to the date of the closing.

The policy does not insure against building purpose, water frontage charges or sewer rent charges entered subsequent to the date of the policy which may have been reassessed for periods prior to the date of the closing.



SECTION 9

T. New Windsor
Sec 20, Bl 2,
Lots 45 & 46

TRW Title Insurance of New York Inc.

MORTGAGE

Disposition

Mortgagor

Amount \$

Dated

NONE

Recorded

Mortgagee

**Reel }
Liber }**

p.

The above mortgage, unless it is to be insured; will appear as an exception in our title policy if not satisfied or otherwise disposed of. If its status is in any way changed prior to closing, please notify the company. Inasmuch as the provisions of a mortgage are often modified by unrecorded agreements, and since all the terms and conditions of the above mortgage are not set forth, we suggest that you contact the mortgagee for further information.

SCHEDULE A

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, Orange County, New York, and which parcels are described as follows:

PARCEL I

BEGINNING at a point in the westerly line of River Road at the intersection of same and the northerly line of premises described in deed Harry L. Stanley, as Treasurer of the County of Orange, to Elizabeth Allen Tubbs, dated April 9, 1941 and recorded May 17, 1941 in Liber 861 of Deeds, page 90, and from said point of beginning running thence along the northerly line of premises conveyed to Elizabeth Allen Tubbs, as aforesaid, north 50° 58' west 99.75 feet, more or less, to the point of beginning of the thirteenth course mentioned and described in the first tract of Deed from The Turl Iron and Car Company, Inc., to Saddle River Oaks, Inc., recorded in Liber 1117 of Deeds, page 260 to 263; thence north 37° 32' east 41.25 feet; thence north 48° 16' west 44.85 feet; thence north 37° 11' east 32.11 feet to the southerly line of a former lane known as Old Road; thence along the southerly line of said Old Road north 72° 57' east 137.44 feet to a point; thence south 61° 13' 30" east 43.80 feet, more or less, to a point on the westerly line of aforesaid River Road; thence along the said westerly line of River Road south 31° 16' 30" west 199.0 feet to the point or place of beginning.

Xd
SUBJECT to an easement by Elizabeth Tubbs to Central Hudson Gas & Electric Corporation and New York Telephone Company, dated May 14, 1959, recorded September 3, 1959, in Liber 1518 of Deeds, page 385.

ALSO SUBJECT to Agreement between Asa T. Tubbs and Elizabeth A. Tubbs with Jerome S. Affron, dated May 16, 1960, recorded May 17, 1960, in Liber 1550 of Deeds, Page 140.

AND ALSO SUBJECT to the easement acquired, or being acquired by the Town of New Windsor for installation of sewer line, and as said easement is shown on Map No. 5 of Sewer District No. 9, prepared by Herbert L. Kartiganer, P.E., L.S., dated February 25, 1969, and as same is shown in the proceedings of the Orange County Court bearing File No. 2703-1969, in the said court minutes of action Book 15, page 234.

I
Instantly conveyed premises being and intended to be the same premises conveyed by Saddle River Oaks, Inc. to Asa C. Tubbs by Deed dated April 14, 1949, recorded May 2, 1949 in Liber 1120 of Deeds, Page 236, Orange County Clerk's Office.

The above description being intended to convey the same premises as set forth on survey made by Theodore Jargstorff, L.S., entitled "Map of Lands of Asa Tubbs, Town of New Windsor, Orange County".

PARCEL II

BEGINNING at a point in the westerly line of River Road at the intersection of same and the northerly line of premises described in deed Harry L. Stanley as Treasurer of the County of Orange to Elizabeth Allen Tubbs, dated April 9, 1941, recorded May 17, 1941 in Liber 861 of Deeds page 90, and from said point of beginning running thence along the westerly line of River Road South 31°

DRAKE, SOMMERS,
LOEB, TARSHIS
& CATANIA, P.C.
ATTORNEYS AT LAW
NEWBURGH, NEW YORK

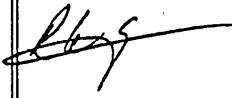
[Signature]
LIBER 2690 pg 277

SCHEDULE A - Page 2

16' 30" west for 42 feet, more or less, to the intersection of said westerly line of River Road with the southerly line of the parcel herein described; thence North 50° 58' West 102.75 feet, more or less, to a point on the southeasterly side of Silver Spring Road; thence along said side of Silver Spring Road, North 37° 32' East to a point where said road curves to the northwest; thence South 50° 58' East for 102.75 feet to the point or place of beginning.

BEING the same premises conveyed by Newburgh Oil Co., Inc. to Heritage Oil Delivery Service, Inc., dated June 30, 1982 and recorded in the Orange County Clerk's Office on July 6, 1982 in Liber 2226 at page 42.

This conveyance is made in the regular course of business of the party of the first part, has been duly approved by the Board of Directors and does not represent a conveyance of all or substantially all of the assets.



...ation of the sum of One Dollar (\$1.00) and other valuable considerations, the receipt whereof from Central Hudson Gas and
Corporation, a domestic corporation having its principal office (residence) at South Road (no street number), Poughkeepsie, New
AND NEW YORK TELEPHONE COMPANY, a domestic Corporation having its principal office (residence) at
WEST STREET, NEW YORK, NEW YORK, is hereby acknowledged, the undersigned hereby grant(s) and
unto said corporation(s), and each of them, their respective successors, assigns and lessees, an easement and right of way in, upon,
under and across the lands of the undersigned including roads and highways thereon and adjacent thereto, situated in the
Town of NEW WINDSOR, County of ORANGE, State of New York.
Said easement and line shall extend from the property line of UNDERSIGNED on the NORTH
in a SOUTHERLY direction to the property line of. UNDERSIGNED on the SOUTH
INSTALL ANCHOR AND GUY AS STATED.
Together with the right at all times to enter thereon and have access thereto and to construct, relocate, operate and maintain thereon and
to repair, replace, protect and remove a line of poles, cables, crossarms, wires, guys, braces, underground conduits and all other appurtenances
and fixtures adapted to the present and future needs, uses and purposes of said corporation(s), their respective successors, assigns and lessees.
Together with the right also to attach guy wires to trees on said property, and to trim, cut and remove trees and other objects thereon so
as to provide a clearance of ... feet from the wires of said corporations.
The exact location of said easement and line is to be as determined by said corporations having regard to the origin, general direction and
destination of said line and the requirements of said corporations. If such line hereafter materially interferes with any new use to which the
land of the undersigned may subsequently be devoted, the Corporations will, on reasonable notice, and on being given without cost a new easement
and right of way, satisfactory in form to them, for a substitute location reasonably suitable for their requirements, remove such line
to such substitute location, but only one such removal may be required.
Central Hudson Gas & Electric Corporation AND NEW YORK TELEPHONE COMPANY shall reimburse
the undersigned for any damage to his—her—their—its property caused solely by the said Corporations in repairing the line to be located on
this easement.
The provisions hereof shall inure to and bind the heirs, legal representatives, successors, assigns and lessees of the undersigned and of
said corporation(s) respectively.
Signed, sealed and delivered, on May 14, 1959, [Signature] (L. S.)
In the presence of: [Signature] (L. S.)
Residing at: [Signature] RIVER ROAD
[Signature] Street
Town, City or Village County State

Put in number, street and city, town or village. If no street
number put "no street number" after name of street.
If no street number put "(none)"

INDIVIDUAL ACKNOWLEDGMENT.
STATE OF NEW YORK
County of ... ss:
On this ... day of ... 19... before me, the subscriber, personally appeared ...
to me personally known and known to me to be the individual(s)
described in and who executed the foregoing instrument, and he... (severally) duly acknowledged to me that he... executed the same.
Notary Public.

CORPORATION ACKNOWLEDGMENT.
STATE OF ... ss:
County of ... ss:
On this ... day of ... in the year 19..., before me personally appeared ...
to me known, who being by me duly sworn, did depose and say: that
he resides at ...; that he is the ... President of the ...
the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said
instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that he signed his name
thereto by this order.
Notary Public.

ACKNOWLEDGMENT BY SUBSCRIBING WITNESS.
STATE OF NEW YORK
County of ... ss:
On this ... day of ... 19..., before me personally came Howard J. Blumstein
(subscribing witness)
with whom I am personally acquainted, to me known and known to me to be the subscribing witness to the foregoing instrument, who, being
by me duly sworn, did depose and say that he resides in ...
that he is personally acquainted with
and knows said person(s) to be the person(s) described in and who executed the foregoing instrument; that he, the said subscribing witness,
was present and saw the said person(s) execute the same and that he... (severally) duly acknowledged to him, the said subscribing wit-
ness, that he... executed the same and that he thereupon subscribed his name as witness thereto.
FRANK W. SHAY
Notary Public.

RIGHT OF WAY
Town NEW WINDSOR
Village
City
No. 801
ELIZABETH TURNER
TO
C.H.G. & E. CORP.
Dated MAY 14, 1959
Map
W.O. No. 03-14-18-880
Line off file no. 5635
County Clerk's Office
Received on the 3 day of Sept. 1959
at 9 H. P.M. M. Recorded in
Book No. 1518 of Deeds
on page 385 and examined
RECEIVED
Leave this space for Recording Office
Fec. Ck.
LIBER 1518 PAGE 385
RECORD AND RETURN TO
CENTRAL HUDSON GAS & ELEC. CORP.
South Road, Poughkeepsie, N. Y. 2

20
254
33

A G R E E M E N T.

MADE this 16 day of May, 1960, between
ASA T. TUBBS and ELIZABETH A. TUBBS, husband and wife,
residing at River Road (no street number), in the Town of
New Windsor, Orange County, New York, parties of the first
part, and JEROME S. AFFRON, residing at Dogwood Lane,
(no street number) in the Town of Newburgh, Orange
County, New York, party of the second part;

WITNESSETH:

That for and in consideration of the sum of
\$100.00, in hand paid, the receipt whereof is hereby
acknowledged, and other good and valuable considerations,
the parties of the first part grant to the party of the
second part, his heirs and assigns, the right of way to
lay pipes for the transportation of petroleum and to
maintain and operate, relay and remove said pipes on,
over and through their lands, described as follows:

ALL that piece or parcel of land lying,
situate and being in the Town of New Windsor,
Orange County, New York, more particularly
described as follows:

BEGINNING at a point at the west edge of
the State Highway in the Town of New Windsor,
Orange County, New York, known as River Road,
which said road runs in front of and to the east
of the property of the parties of the first part,
from a point in the said west edge of said high-
way which is 42 feet more or less north of a
Central Hudson Gas & Electric Corporation pole
No. 18994, and running thence west for a distance
of 11 feet to a point; and thence north and
parallel to said River Road for a distance of 50
feet more or less to a point; and thence east
11 feet to the east edge of the said River Road;
and thence south 50 feet more or less to the point
or place of beginning. TOGETHER with all the
rights and privileges incident and necessary to
the enjoyment of this grant.

LEER 1550 PAGE 140

Recorded 5/17/60

In further consideration of said grant and demise, the party of the second part hereby agrees to bury the said pipes in accordance with the terms and conditions of a certain permit granted to him by the Department of Public Works of the State of New York, Permit No. 860-271 and dated April 11, 1960.

WITNESS our hands and seals the day and year first above written.

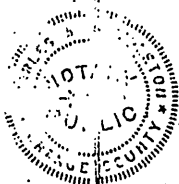
Asa T. Tubbs (L. S.)
Asa T. Tubbs.

In Presence Of: Elizabeth A. Tubbs (L. S.)
Elizabeth A. Tubbs.

Jerome S. Affron (L. S.)
Jerome S. Affron.

STATE OF NEW YORK)
COUNTY OF ORANGE) SS.:

On this 16 day of May, 1960, before me personally appeared ASA T. TUBBS and ELIZABETH A. TUBBS, to me known and known to be two of the individuals described in the within agreement and they duly acknowledged to me that they executed the same.



Charles A. Templeton
Notary Public, Orange County.

CHARLES A. TEMPLETON
Notary Public, State of New York
Issued as Appointment - Orange County
Commission Expires March 31, 1964
Orange Co. Clerk's No. 1713

INDENTURE, made the 30th day of June, nineteen hundred and eighty-two
BETWEEN NEWBURGH OIL CO., INC., a domestic corporation with its
principal place of business at P.O. Box 4076, New Windsor, New
York 12550

party of the first part, and HERITAGE OIL DELIVERY SERVICE, INC., a domestic
corporation with its principal place of business at 9 Joys Lane,
Kingston, New York 12401

party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN AND 00/100-----
----- (\$10.00) ----- dollars,

lawful money of the United States, and other good and valuable consideration, paid
by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,
lying and being in the Town of New Windsor, Orange County, New York, and
which parcels are described as follows:

PARCEL I

BEGINNING at a point in the westerly line of River Road at the
intersection of same and the northerly line of premises described
in deed Harry L. Stanley, as Treasurer of the County of Orange, to
Elizabeth Allen Tubbs, dated April 9, 1941 and recorded May 17,
1941 in Liber 861 of Deeds, page 90, and from said point of beginning
running thence along the northerly line of premises conveyed to
Elizabeth Allen Tubbs, as aforesaid, north 50° 58' west 99.75 feet,
more or less, to the point of beginning of the thirteenth course
mentioned and described in the first tract of Deed from The Turl
Iron and Car Company, Inc., to Saddle River Oaks, Inc., recorded
in Liber 1117 of Deeds, page 260 to 263; thence north 37° 32' east
41.25 feet; thence north 48° 16' west 44.85 feet; thence north 37°
11' east 32.11 feet to the southerly line of a former lane known as
Old Road; thence along the southerly line of said Old Road north
72° 57' east 137.44 feet to a point; thence south 61° 13' 30" east
43.80 feet, more or less, to a point on the westerly line of afore-
said River Road; thence along the said westerly line of River Road
south 31° 16' 30" west 199.0 feet to the point or place of beginning.

SUBJECT to an easement by Elizabeth Tubbs to Central Hudson Gas &
Electric Corporation and New York Telephone Company, dated May 14,
1959, recorded September 3, 1959, in Liber 1518 of Deeds, page 385.

ALSO SUBJECT to Agreement between Asa T. Tubbs and Elizabeth A.
Tubbs with Jerome S. Affron, dated May 16, 1960, recorded May 17,
1960, in Liber 1550 of Deeds, Page 140.

AND ALSO SUBJECT to the easement acquired, or being acquired by the
Town of New Windsor for installation of sewer line, and as said
easement is shown on Map No. 5 of Sewer District No. 9, prepared by
Herbert L. Kartiganer, P.E., L.S., dated February 25, 1969, and as
same is shown in the proceedings of the Orange County Court bearing
File No. 2703-1969, in the said court minutes of action Book 15,
page 234.

Instantly conveyed premises being and intended to be the same premises conveyed by Saddle River Oaks, Inc. to Asa C. Tubbs by Deed dated April 14, 1949, recorded May 2, 1949 in Liber 1120 of Deeds, Page 236, Orange County Clerk's Office.

The above description being intended to convey the same premises as set forth on survey made by Theodore Jargstorff, L.S., entitled "Map of Lands of Asa Tubbs, Town of New Windsor, Orange County".

PARCEL II

BEGINNING at a point in the westerly line of River Road at the intersection of same and the northerly line of premises described in deed Harry L. Stanley as Treasurer of the County of Orange to Elizabeth Allen Tubbs, dated April 9, 1941, recorded May 17, 1941 in Liber 861 of Deeds page 90, and from said point of beginning running thence along the westerly line of River Road South $31^{\circ} 16' 30''$ West for 42 feet, more or less, to the intersection of said westerly line of River Road with the southerly line of the parcel herein described; thence North $50^{\circ} 58'$ West 102.75 feet, more or less, to a point on the southeasterly side of Silver Spring Road; thence along said side of Silver Spring Road, North $37^{\circ} 32'$ East to a point where said road curves to the northwest; thence South $50^{\circ} 58'$ East for 102.75 feet to the point or place of beginning.

BEING the same premises conveyed by Edward L. Jollie and Olive Jollie to Newburgh Oil Company, Inc. by deed dated February 20, 1980 and recorded in the Orange County Clerk's Office on February 22, 1980 in Liber 2158 of Deeds at page 133.

The conveyance of the within premises has been unanimously approved at a meeting of the shareholders of Newburgh Oil Co., Inc. held on June 3, 1982.

MUNICIPAL DEPARTMENTAL SEARCHES

For Information Only

Searches made by Department of Buildings:

Certificate of Occupany to Follow

Searches made by Fire Department:

Not Applicable

Searches Made By Highway Department:

River Road is Town Maintained



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

1763 JUNE 15, 1993

J.T. ABSTRACT, INCORPORATED
717 BROADWAY
NEWBURGH, N.Y. 12550

PROPERTY ASSESSED TO: ACS PROPERTY, INC.
90 RIVER ROAD
NEW WINDSOR, NY 12553
SECTION 20, BLOCK 2, LOT 45

DEAR SIR:

PLEASE FIND ENCLOSED A COPY OF THE CERTIFICATE OF OCCUPANCY #35
ISSUED MAY 31, 1972 FOR THE ABOVE REFERENCED STRUCTURE.

RIVER ROAD IS OWNED AND MAINTAINED BY THE TOWN OF NEW WINDSOR.

THIS LETTER HAS BEEN PREPARED AFTER INSPECTION OF THE RECORDS
AVAILABLE IN THE TOWN HALL. THE RECORDS INDICATE THAT THERE ARE
NO VIOLATIONS AT THE SUBJECT PREMISES. NO PERSONAL INSPECTION
WAS MADE BY THE UNDERSIGNED FOR THE PURPOSE OF PREPARING THIS
LETTER. THE TOWN OF NEW WINDSOR DOES NOT REPRESENT THAT THERE
ARE NO VIOLATIONS AT THE SUBJECT PREMISES, HOWEVER, THE TOWN WILL
REPRESENT THAT IT HAS NO KNOWLEDGE OF ANY VIOLATIONS AT THE
SUBJECT PREMISES.

THE INSPECTION OF THE RECORDS WAS PERFORMED AT THE REQUEST OF AN
INTERESTED PARTY. THE TOWN WILL NOT BE LIABLE FOR ANY LOSS OR
DAMAGE THAT MAY BE SUFFERED BY THE INTERESTED PARTY OR ANY OTHER
PARTY WHO MAY RELY ON THE CONTENTS OF THIS LETTER.

TITLE #9 NYCRR REQUIRES THAT A SMOKE DETECTOR BE INSTALLED PRIOR
TO THE SALE OF THESE PREMISES. PLEASE SUBMIT TO THE FIRE
INSPECTOR AT THE ABOVE ADDRESS THE ENCLOSED AFFIDAVIT OF
COMPLIANCE INDICATING THAT A SMOKE DETECTOR HAS BEEN INSTALLED
AND IS IN OPERATION.

VERY TRULY YOURS,

Michael Babcock
MICHAEL BABCOCK
BUILDING INSPECTOR *MB*

MB:ldm



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

1763 JUNE 15, 1993

J.T. ABSTRACT, INCORPORATED
717 BROADWAY
NEWBURGH, N.Y. 12550

PROPERTY ASSESSED TO: ACS PROPERTY, INC.
90 RIVER ROAD
NEW WINDSOR, N.Y. 12553
SECTION 20, BLOCK 2, LOT 46

DEAR SIRs:

PLEASE BE ADVISED THAT THE ABOVE REFERENCED PROPERTY IS LISTING IN THE ASSESSOR'S RECORDS AS VACANT PROPERTY AND DOES NOT REQUIRE A CERTIFICATE OF OCCUPANCY.

RIVER ROAD IS OWNED AND MAINTAINED BY THE TOWN OF NEW WINDSOR.

THIS LETTER HAS BEEN PREPARED AFTER INSPECTION OF THE RECORDS AVAILABLE IN THE TOWN HALL. THE RECORDS INDICATE THAT THERE ARE NO VIOLATIONS AT THE SUBJECT PREMISES. NO PERSONAL INSPECTION WAS MADE BY THE UNDERSIGNED FOR THE PURPOSE OF PREPARING THIS LETTER. THE TOWN OF NEW WINDSOR DOES NOT REPRESENT THAT THERE ARE NO VIOLATIONS AT THE SUBJECT PREMISES, HOWEVER, THE TOWN WILL REPRESENT THAT IT HAS NO KNOWLEDGE OF ANY VIOLATIONS AT THE SUBJECT PREMISES.

THE INSPECTION OF THE RECORDS WAS PERFORMED AT THE REQUEST OF AN INTERESTED PARTY. THE TOWN WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT MAY BE SUFFERED BY THE INTERESTED PARTY OR ANY OTHER PARTY WHO MAY RELY ON THE CONTENTS OF THIS LETTER.

TITLE #9 NYCRR REQUIRES THAT A SMOKE DETECTOR BE INSTALLED PRIOR TO THE SALE OF THESE PREMISES. PLEASE SUBMIT TO THE FIRE INSPECTOR AT THE ABOVE ADDRESS THE ENCLOSED AFFIDAVIT OF COMPLIANCE INDICATING THAT A SMOKE DETECTOR HAS BEEN INSTALLED AND IS IN OPERATION.

VERY TRULY YOURS,

Michael Babcock
MICHAEL BABCOCK
BUILDING INSPECTOR

L.W.

20-2-45

Application No. _____ Permit No. 167-1970

Building Department
(CITY, TOWN OR VILLAGE) OF NEW WINDSOR 555 UNION AVE
(Address and Telephone Number)

County of: ORANGE

Location: RIVER ROAD

Map No.: _____ Section: _____ Block: _____ Lot: _____

Certificate of Occupancy

No. 35-1972

Date MAY 31 1972

THIS CERTIFIES that the building located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated DEC 10 1970, pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law. The occupancy for which this certificate is issued is STORAGE & SALES OF BUILDING SUPPLIES

AREA VARIANCE GRANTED BY BOARD OF APPEALS NOVEMBER 1970

This certificate is issued to EDWARD JOLLIE
(owner, lessee or tenant)
of the aforesaid building.

Harold R. [Signature]
Superintendent of Buildings

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy.)

2.2
2.2A

*elver
through*
128

35
176.8
200

400S

ROAD

104.5

56.2

240

FORMERLY WATER ST.)

125
125.3
59
34.3
65.7
58
76.9
62.7
69

185.7

CLINTON ST.

82.5
53
50
25
54
47
55
100
56

CLINTON ST.

100
66.5
29.5
100
65.5
100
115.8
4
115.8
55

FORMERLY ALLEY
SACKETT'S ALLEY

1835

1949

67.7
65.6

ROAD

SECTION

9

T/ New Windsor
Sec 20, Bl 2,
Lots 45 & 46

1" = 100'

N 537.500
E 587.500

DELLAFIORA S.P. (93-24) River Road

Steven Drabick appeared before the Board for this proposal.

BY MR. VAN LEEUWEN: Where is this site at?

BY MR. DRABICK: This site is located on River Road. The property itself is currently owned by A.C.S. Properties, is an existing area of a little over a half acre, it has a one and a half story masonry building, an old existing frame garage on it. The property itself is serviced by municipal water and sewer and it lies in a P.I. zone. Now, the applicant is looking to purchase this property and develop it as an auto body repair shop and used car dealership. Now, that use being of a commercial type in nature, would mean that we would need a use variance in this particular zone. Basically this evening we are before the Board to ask for a referral to the Zoning Board of Appeals so that we can seek that variance.

BY MR> VAN LEEUWEN: I'll make a motion that we approve it.

BY MR. SCHIEFER: I'll second it.

BY MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board approve the Dellafiora site plan on River Road.

BY MR. VAN LEEUWEN: I'd like to make a suggestion. Next time we have a site plan visit we go and take a look at this building. I know where it is, you know where it is.

BY MR. PETRO: Also in concept I know that the Chairman of the Zoning Board reads the minutes of the New Windsor Planning Board. Conceptually do we have a problem with this site plan, or do we feel that it could be --

BY MR. VAN LEEUWEN: I don't think we have any problem there.

BY MR. SCHIEFER: There's similar things in that area right now.

BY MR. PETRO: Roll call for approval.

ROLL CALL:

MR. VAN LEEUWEN: No.

MR. SCHIEFER: No.

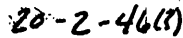
MR. LANDER: No.

MR. PETRO: No.

MR. DUBALDI: No.

BY MR. PETRO: You're referred to the Zoning Board.
Good luck, we'll see you when you come back.

2 Level 3 Above Street



DOLLIE EDWARD L + OLIVE
32 WILLOW LANE NEW WINDSOR, NY

eritage Oil Co. Inc. <—
Joys Lane, Kingston, NY

ig S. Oil Co. Inc.

IG SAVER, INC. 9/90 - \$52,250.^{with-2}_{No-2}

TATIONS ACS PROPERTY INC	\$50,000.	Valid
--------------------------	-----------	-------

LAND COMPUTATIONS ACS PROPERTY INC \$50,000.Valid

PROPERTY CLASSIFICATION CODE

ASSESSMENT RECORD

BUILDING PERMIT RECORD

DATE		TYPE	AMOUNT	NUMBER
MO.	YR.	1 DEMOL. 2 ADDN.		
12	70		storage	BP#167
5	72		—	Co# 35

MEMORANDA

MEMORANDA

Jan 2-46

250
145 x 100 = 145

105 x 60 = 63

Eq. 208.0

COLE LAYER • RUMBLE CO. APPRAISERS © 1972.

ORANGE COUNTY, NEW YORK

2 Level = Above Street